

By: 

S.B. No. 1828

A BILL TO BE ENTITLED

AN ACT

relating to the transfer of the State Soil and Water Conservation Board to the Department of Agriculture.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (d), Section 201.001, Agriculture Code, is amended to read as follows:

(d) It is the policy of the legislature to provide for the conservation of soil and related resources of this state and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state, and thus to carry out the mandate expressed in Article XVI, Section 59a, of the Texas Constitution. It is further declared as a matter of legislative intent and determination of policy that the State Soil and Water Conservation Board is [~~the state agency~~] responsible for implementing the constitutional provisions and state laws relating to the conservation and protection of soil resources.

SECTION 2. Section 201.011, Agriculture Code, is amended to read as follows:

Sec. 201.011. COMPOSITION. The State Soil and Water Conservation Board is [~~a state agency~~] composed of five members,

\_\_\_\_.B. No. \_\_\_\_

1 with one member elected from each of the state districts in  
2 accordance with this subchapter.

3 SECTION 3. Subchapter B, Chapter 201, Agriculture Code, is  
4 amended by adding Section 201.0111 to read as follows:

5 Sec. 201.0111. STATE BOARD IN DEPARTMENT. (a) The state  
6 board is within the department.

7 (b) The state board shall exercise its functions, duties,  
8 and powers under the direction of the commissioner.

9 SECTION 4. Subsection (c), Section 201.0151, Agriculture  
10 Code, is amended to read as follows:

11 (c) If the executive director has knowledge that a potential  
12 ground for removal exists, the executive director shall notify the  
13 chairman of the state board. The chairman shall then notify the  
14 commissioner, the governor, and the attorney general that a  
15 potential ground for removal exists. If the potential ground for  
16 removal involves the chairman, the executive director shall notify  
17 the next highest ranking officer of the state board, who shall then  
18 notify the commissioner, the governor, and the attorney general  
19 that a potential ground for removal exists.

20 SECTION 5. Subsections (a), (f), and (i), Section 201.019,  
21 Agriculture Code, are amended to read as follows:

22 (a) The commissioner [~~state board~~] shall designate one of  
23 its members as chairman.

24 (f) The executive director or the executive director's  
25 designee shall provide to the commissioner, members of the state  
26 board, and state board employees, as often as necessary,  
27 information regarding the requirements for office or employment

1 under this chapter, including information regarding a person's  
2 responsibilities under applicable laws relating to standards of  
3 conduct for state officers and employees.

4 (i) The state board [~~agency~~] shall develop and implement  
5 policies which clearly separate the respective responsibilities of  
6 the state board and the staff of the board.

7 SECTION 6. Subsection (c), Section 201.0191, Agriculture  
8 Code, is amended to read as follows:

9 (c) The policy statement must:

10 (1) be filed with the commissioner and the governor's  
11 office;

12 (2) be updated annually; and

13 (3) be reviewed by the Commission on Human Rights for  
14 compliance with Subsection (b)(1).

15 SECTION 7. Subsections (a) and (b), Section 201.023,  
16 Agriculture Code, are amended to read as follows:

17 (a) Except as provided by Section 201.081, the state board  
18 shall deposit all money and securities received by it in the state  
19 treasury to the credit of a special fund known as the state soil  
20 conservation fund. That fund shall be appropriated to the  
21 department [~~state board~~] for use in the administration of this  
22 chapter and is subject to the same care and control while in the  
23 state treasury as other funds of the state.

24 (b) The financial transactions of the state board are  
25 subject to audit by the state auditor in accordance with Chapter  
26 321, Government Code. The state board shall file annually with, the  
27 commissioner, the governor, and the presiding officer of each house

\_\_\_\_.B. No. \_\_\_\_

1 of the legislature a complete and detailed written report that  
2 accounts for all funds received and disbursed by the board during  
3 the preceding year. The form of the annual report and the time for  
4 the report shall be prescribed in the General Appropriations Act.

5 SECTION 8. Subsection (e), Section 201.026, Agriculture  
6 Code, as added by Chapter 1095, Acts of the 77th Legislature,  
7 Regular Session, 2001, is amended to read as follows:

8 (e) State [~~Other state~~] agencies with responsibility for  
9 abating agricultural and silvicultural nonpoint source pollution  
10 shall coordinate any abatement programs and activities with the  
11 state board.

12 SECTION 9. This Act takes effect September 1, 2003.

13 SECTION 10. The transfer of the State Soil and Water  
14 Conservation Board under this Act does not affect or impair any act  
15 done, any obligation, complaint, review, program, report,  
16 standard, or requirement existing, any investigation begun, or any  
17 penalty accrued under former law, and that law remains in effect for  
18 any action concerning those matters.

By: Averitt S.B. No. 1828  
(In the Senate - Filed March 14, 2003; March 24, 2003, read first time and referred to Committee on Natural Resources; March 27, 2003, rereferred to Committee on Government Organization; April 28, 2003, reported adversely, with favorable Committee Substitute by the following vote: Yeas 5, Nays 0; April 28, 2003, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.B. No. 1828

By: Armbrister

A BILL TO BE ENTITLED  
AN ACT

relating to the composition and duties of the State Soil and Water Conservation Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 201.011, Agriculture Code, is amended to read as follows:

Sec. 201.011. COMPOSITION. The State Soil and Water Conservation Board is a state agency composed of seven ~~[five]~~ members as follows:

(1) ~~[, with]~~ one member elected from each of the state districts in accordance with this subchapter; and

(2) two members appointed by the governor, each of whom is:

(A) actively engaged in the business of farming, animal husbandry, or other business related to agriculture and who wholly or partly owns or leases land used in connection with that business; and

(B) not a member of the board of directors of a conservation district.

SECTION 2. Subsection (b), Section 201.015, Agriculture Code, is amended to read as follows:

(b) The term of office of an elected ~~[a]~~ member of the state board begins on the day after the day on which the member was elected. The term of one member appointed by the governor expires February 1 of each odd-numbered year, and the term of the other member appointed by the governor expires February 1 of each even-numbered year.

SECTION 3. Section 201.016, Agriculture Code, is amended to read as follows:

Sec. 201.016. VACANCY. Vacancies on the state board for state district positions are filled by election in the manner provided by this subchapter for an unexpired term or for a full term.

SECTION 4. Subchapter B, Chapter 201, Agriculture Code, is amended by adding Sections 201.028 and 201.029 to read as follows:

Sec. 201.028. SEMIANNUAL REPORT. Not later than January 1 and July 1 of each year, the state board shall prepare and deliver a report to the governor, the lieutenant governor, and the speaker of the house of representatives relating to the status of the board's budget areas of responsibility assigned to the board, including outreach programs, grants made and received, federal funding applied for and received, special projects, and oversight of water conservation district activities.

Sec. 201.029. MANAGEMENT AUDIT. (a) Not later than March 1, 2004, the state auditor, in coordination with the Legislative Budget Board, shall conduct a management audit of the State Soil and Water Conservation Board and deliver the audit report to the governor, the lieutenant governor, and the speaker of the house of representatives. The audit shall include an evaluation of the administrative budget for the board.

(b) This section expires April 1, 2004.

SECTION 5. In making initial appointments to the State Soil and Water Conservation Board under Section 201.011, Agriculture Code, as amended by this Act, the governor shall designate one

2-1 member to serve a term expiring February 1, 2004, and the other  
2-2 member to serve a term expiring February 1, 2005.

2-3 SECTION 6. The State Soil and Water Conservation Board  
2-4 shall prepare and deliver the first report required by Section  
2-5 201.028, Agriculture Code, as added by this Act, not later than  
2-6 January 1, 2004.

2-7 SECTION 7. This Act takes effect September 1, 2003.

2-8 \* \* \* \* \*

FAVORABLY AS SUBSTITUTED  
SENATE COMMITTEE REPORT ON

(SB)

SCR

SJR

SR

HB

HCR

HJR

1828

By

Averitt

(Author/Senate Sponsor)

April 28, 2003

(date)

We, your Committee on GOVERNMENT ORGANIZATION, to which was referred the attached measure, have on April 23, 2003, had the same under consideration and I am instructed to report it back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed  
☐ the caption remained the same as original measure  
☒ the caption changed with adoption of the substitute

☐ do pass as substituted, and be ordered not printed

☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Ellis, Chair	<input checked="" type="checkbox"/>			
Senator Wentworth, Vice-Chair			<input checked="" type="checkbox"/>	
Senator Armbrister	<input checked="" type="checkbox"/>			
Senator Bivins			<input checked="" type="checkbox"/>	
Senator Brimer	<input checked="" type="checkbox"/>			
Senator Ratliff	<input checked="" type="checkbox"/>			
Senator Whitmire	<input checked="" type="checkbox"/>			
TOTAL VOTES	5	0	2	0

COMMITTEE ACTION

S260

Considered in public hearing

S270

Testimony taken

COMMITTEE CLERK

CHAIR

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute  
Retain one copy of this form for Committee files

WITNESS LIST

SB 1828

SENATE COMMITTEE REPORT

Government Organization

April 16, 2003 - 1:00PM

FOR: Halbert, Wayne Farmer/ General Manager- Harlingen (Southmost SWCD)  
Holekamp, George Farming and Ranching (Kerr SWCD 217), Kerrville, TX

AGAINST: Bass, Jan (Hays Co. Soil and Water Conservation District 351), Wimberley, TX  
Buckles, Scott Ag. Producer (Sherman County Soil and Water Conservation Dist.),  
Stratford, TX  
DeBusk, Hall J. Rancher (Hamilton-Coryell Soil and Water Conservation Dist.),  
Purmela, TX  
Dierschke, Kenneth Farmer (Texas Farm Bureau)  
Dodier, Jose Rancher (Assn. of Texas Soil and Water Dist)  
Furgeson, Johnny Farming (Black Water Valley SWCD), Morton, TX  
Graham, Marty Rancher (Tx. State Assoc. Soil and Water Cons. Districts),  
Rocksprings, TX  
Mackin, Alfred Rancher (Lamar SWCD)  
Mann, Billy Farming and Ranching (Soil and Water Conservation), Bay City, TX  
Matthews, J.C. Farm/ Rancher (Throckmorton County SWCD), Woodson, TX  
Pearson, Jr., Robert F. Cattleranching, Tree Farming (Freestone County Soil and Water  
Conservation District)  
Register, T. Wayne Gear Manufacturer & Cattle Ranch (Montgomery Co. SWCD),  
New Waverly, TX  
Remmele, Merle Rancher (Wise SWCD)  
Richmond, Jule Rancher (Pecan Bayou Soil and Water Conservation Dist.), Blanket,  
TX  
Sacoby, W. Roy Ranching (Menard Co. SWCD-215), Menard, TX  
Swann, Donald Farmer (State SWCB. San Patricio Co. Dist.# 324), San Patricio, TX  
Thomas, W.P. Cattleman (Navasota SWCD, #440), Richards, TX  
Thompson, Roy W. Farmer/Rancher (Lamb Co. SWCD #130)  
White, Leland Farmer (Lynn Co. SWCD), Tahoka, TX

ON: Albrecht, Edward Ranching (Self)  
Combs, Susan (Texas Department of Agriculture)  
Loesch, F.R. Farming and Ranching (Self), Booker, TX  
Moore, James Executive Director (Texas Soil and Water Conservation Board), Belton,  
TX

Registering, but not testifying:

AGAINST: Basinger, David Soil and Water Cons. Director (Lama Co. Soil Conservation District),  
Deport, TX



Brown, Douglas Farming (Navasota Soil and Water Conservation District), Waller, TX  
 Courtney, Moody Rancher (Hamilton-Coryell SWCD), Jonesboro, TX  
 Crook, Don Ray Farmer- Rancher (Hall-Childress SWCD 109)  
 Damerau, Larry Farmer and Rancher (Soil and Water Con. 306 Camal & Guadalupe Co.), Marion, TX  
 Dreibrodt, Freddie Farmer and Rancher (Soil and Water Con. 306), San Marcos, TX  
 Dunn, Stacey Cotton Farmer (Cochran SWCD), Bledsoe, TX  
 Gerald Jr., P.M. Rancher (Hamilton-Coryell SWCD), Hamilton, TX  
 Goehmann, Harold Rancher (Self), Llano, TX  
 Goeke, Charles Rancher (Austin Co. SWCD #347  
 Austin Co. SWCD #347), Brenham, TX  
 Grones, Melvin Ranching (District 306  
 District 306)  
 Henderson, Jerry Rancher (Jack SWCD)  
 Hodge, Richard rancher (SWCD District #316- Matagorda County)  
 James, Rickey Farmer (Hale County Soil and Water), Plamuiera, TX  
 Kleibrink, Von District Employer (Hamilton- SWCD)  
 Kuecker, Howard Rancher (Soil and Water #348  
 Soil & Water #348)  
 Lyon, Glen Farming (Cochran County SWCD), Morton, TX  
 Mims, Angus Rancher (Rusk Co. SWD)  
 Mogonye, Jim V Farmer and Rancher (Soil and Water)  
 Moore, Norman Farming-Ranching (ULSWCD)  
 Nichols, Jerry D. Poultry Farmer (Nacogdoches Soil and Water Conservation Dist.),  
 Nacogdoches, TX  
 O'Neal, Shawn Farm and Ranch (McCellan Creek Soil and Water), Panhandle, TX  
 Ottmers, Guenther G. Ranching- Agriculture (Director- Gillespie SWCD #220),  
 Fredricksburg, TX  
 Paschall, Jim Raner (Wise SWCD), Paradise, TX  
 Phillips, Harold (CCR), Coleman, TX  
 Ponder, Don R. Farmer and Rancher (Moore Co.), Dumas, TX  
 Priesmeyer, Arthur Farming and Ranching (Wharton County Soil and Water  
 Conservation)  
 Reynolds, Melvin Retired- Farm (Soil and Water Conservation Districts)  
 Rowland, Allison (Independent Cattleman's Association of Texas), Austin, TX  
 Runge, Caroline Gen. Manager (Menard County Underground Water District),  
 Menard, TX  
 Scrivner, Curtis Rancher (Hall-Childress SWCD), Turkey, TX  
 Teague, Buddy Rancher (Hamilton-Coryell SWC District), Hico, TX  
 Werlla, W. Ross Rice Farmer (Fort Bend County Farm Bureau), Rosenberg, TX  
 Whitehead, Worth Cattle (Rusk SWCD #447)  
 Williams, Larry Chairman, Crockett SWCD (Crockett SWCD), Ozona, TX

ON: Small, Ed Atty (Texas and Southwestern Cattle Raisers)

Providing written testimony:

AGAINST: Graf, Harold Pecan farmer (Wharton Co. SWCD), Wharton, TX  
McKiernan, Mark Farmer (SWCD 156)

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1828  
By: Averitt  
Government Organization  
4/24/2003  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Currently, the Texas State Soil and Water Conservation Board is an agency of the state. C.S.S.B. 1828 amends the statutes governing the Texas State Soil and Water Conservation Board.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 201.011, Agriculture Code, as follows:

Sec. 201.011. COMPOSITION. Provides that the State Soil and Water Conservation Board (SSWCB) is a state agency composed of seven, rather than five, certain members.

SECTION 2. Amends Section 201.015(b), Agriculture Code, to provide that the term of office of an elected member of SSWCB begins on the day after the day on which the member was elected. Provides that the term of one member appointed by the governor expires February 1 of each odd-numbered year, and the term of the other member appointed by the governor expires February 1 of each even-numbered year.

SECTION 3. Amends Section 201.016, Agriculture Code, as follows:

Sec. 201.016. VACANCY. Provides that vacancies on SSWCB for state district positions are filled by election in the manner provided by this subchapter for an unexpired term or for a full term.

SECTION 4. Amends Subchapter B, Chapter 201, Agriculture Code, by adding Sections 201.028 and 201.029, as follows:

Sec. 201.028. SEMIANNUAL REPORT. Requires SSWCB, not later than January 1 and July 1 of each year, to prepare and deliver a report to the governor, the lieutenant governor, and the speaker of the house of representatives relating to the status of SSWCB's budget areas of responsibility assigned to SSWCB, including outreach programs, grants made and received, federal funding applied for and received, special projects, and oversight of water conservation district activities.

Sec. 201.029. MANAGEMENT AUDIT. (a) Requires the state auditor, in coordination with the Legislative Budget Board, not later than March 1, 2004, to conduct a management audit of SSWCB and deliver the audit report to the governor, the lieutenant governor, and the speaker of the house of representatives. Requires the audit to include an evaluation of the administrative budget for SSWCB.

(b) Provides that this section expires April 1, 2004.

SECTION 5. Amends Sections 203.160(c) and (d), Agriculture Code, as follows:

(c) Requires the board of directors of a soil and water conservation district (district

board), on completion of the negotiations by the district board, to submit the proposed contract to the SSWCB for approval by SSWCB and the commissioner.

(d) Requires the SSWCB and the commissioner to examine the contract to determine whether the contract meets all the conditions of SSWCB's resolution, instructions, and rules. Requires SSWCB, if the contract is approved, to provide, rather than approve the contract, to the individual on completion of the project the money that constitutes the state's share of the project.

SECTION 6. Requires the governor, in making initial appointments to SSWCB under Section 201.011, Agriculture Code, as amended by this Act, to designate one member to serve a term expiring February 1, 2004, and the other member to serve a term expiring February 1, 2005.

SECTION 7. Requires SSWCB to prepare and deliver the first report required by Section 201.028, Agriculture Code, as added by this Act, not later than January 1, 2004.

SECTION 8. Effective date: September 1, 2003.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**April 25, 2003**

**TO:** Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: SB1828** by Averitt (Relating to the composition and duties of the State Soil and Water Conservation Board.), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would add two members to the Soil and Water Conservation Board. It would also require the agency to perform an audit and submit a report to the Legislature.

There would likely be some additional travel and per diem costs for the additional board members. There would also be additional costs associated with the preparation of the audit and report required by the bill. It is expected that these costs would not be significant, and that the Soil and Water Conservation Board could absorb additional costs using existing staff and resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 592 Soil and Water Conservation Board

**LBB Staff:** JK, GO, TL

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**April 15, 2003**

**TO:** Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: SB1828** by Averitt (Relating to the transfer of the State Soil and Water Conservation Board to the Department of Agriculture.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1828, As Introduced: a positive impact of \$2,134,391 through the biennium ending August 31, 2005.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2004	\$1,067,195
2005	\$1,067,196
2006	\$1,067,196
2007	\$1,067,196
2008	\$1,067,196

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from GENERAL REVENUE FUND 1</b>	<b>Change in Number of State Employees from FY 2003</b>
2004	\$1,067,195	(11.5)
2005	\$1,067,196	(21.0)
2006	\$1,067,196	(21.0)
2007	\$1,067,196	(21.0)
2008	\$1,067,196	(21.0)

**Fiscal Analysis**

This bill transfers the functions of the State Soil and Water Conservation Board to the Department of Agriculture. These functions include: Brush Control, Technical Assistance to Soil and Water Conservation (SWC) Districts, Pollution Abatement, and Statewide Management Planning. The board would function under the direction of the Agriculture Commissioner, who would designate one of the board members as the chairman. The board would develop and implement policies that clearly separated the respective responsibilities of the state board and the staff of the board.

**Methodology**

According to the Department of Agriculture (TDA) the transfer of the State Soil and Water Conservation Board (TSSWCB) functions to TDA would result in a biennial savings to General Revenue of \$2,134,391. This savings would be realized through a reduction in FTEs and the associated administrative costs needed to implement TSSWCB's Brush Control and Pollution

Abatement functions.

TDA has had prior experience in administering Brush Control grants and anticipates being able to distribute these grants without needing any of the four FTEs currently associated with the program, resulting in a biennial savings of \$150,947 in General Revenue. TDA also proposes to combine Pollution Abatement with the Technical Assistance to SWC Districts function. According to the agency, this action would be phased in beginning in fiscal year 2004 and would result in a total reduction of 15 FTEs in fiscal year 2005 and an associated \$1,983,444 biennial savings in administrative costs.

TDA also anticipates a reduction to the FTEs associated with Statewide Management Planning. This function is primarily funded from federal dollars. TSSWCB originally requested six FTEs to implement this program in the upcoming biennium. It is anticipated that because TDA already has established relationships with EPA and an infrastructure to handle EPA grants, TDA could operate this program with only four FTEs resulting in a further reduction of two FTEs.

### **Technology**

No significant fiscal impact to technology.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

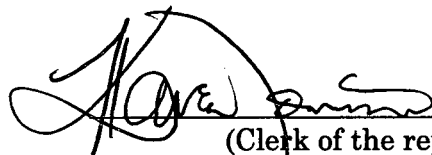
**Source Agencies:** 304 Comptroller of Public Accounts, 551 Department of Agriculture, 592 Soil and Water Conservation Board

**LBB Staff:** JK, WP, GO, MS, TL, JF

# REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

SENATOR CHRIS HARRIS, CHAIRMAN  
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that SB 1828, by Averitt,  
(Bill No.) (Author/Sponsor)  
was heard by the Committee on Government Organization on April 23, 2003,  
and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.



(Clerk of the reporting committee)

**IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A COMMITTEE PRINTED VERSION OF THE BILL OR RESOLUTION AND SHOULD BE DELIVERED TO THE ADMINISTRATION COMMITTEE OFFICE, E1.714. DEADLINES FOR SUBMITTING BILLS AND RESOLUTIONS WILL BE ANNOUNCED ON A REGULAR BASIS.**

Paper clip the original to the bill; retain pink copy for committee files; deliver yellow copy to bill author/sponsor.



ADOPTED

as amended

MAY 01 2003

*Latoy Spaw*  
Secretary of the Senate

By: Averitt

S.B. No. 1828

Substitute the following for S.B. No. 1828:

By: *[Signature]*

C.S.S.B. No. 1828

A BILL TO BE ENTITLED

AN ACT

relating to the composition and duties of the State Soil and Water Conservation Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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(1) [~~with~~] one member elected from each of the state districts in accordance with this subchapter; and

(2) two members appointed by the governor, each of whom is:

(A) actively engaged in the business of farming, animal husbandry, or other business related to agriculture and who wholly or partly owns or leases land used in connection with that business; and

(B) not a member of the board of directors of a conservation district.

SECTION 2. Subsection (b), Section 201.015, Agriculture Code, is amended to read as follows:

(b) The term of office of an elected [~~a~~] member of the state board begins on the day after the day on which the member was elected. The term of one member appointed by the governor expires

1/2

1 February 1 of each odd-numbered year, and the term of the other  
2 member appointed by the governor expires February 1 of each  
3 even-numbered year.

4 SECTION 3. Section 201.016, Agriculture Code, is amended to  
5 read as follows:

6 Sec. 201.016. VACANCY. Vacancies on the state board for  
7 state district positions are filled by election in the manner  
8 provided by this subchapter for an unexpired term or for a full  
9 term.

10 SECTION 4. Subchapter B, Chapter 201, Agriculture Code, is  
11 amended by adding Sections 201.028, <sup>and 201.030</sup> ~~and 201.029~~ to read as follows:

12 Sec. 201.028. SEMIANNUAL REPORT. Not later than January 1  
13 and July 1 of each year, the state board shall prepare and deliver a  
14 report to the governor, the lieutenant governor, and the speaker of  
15 the house of representatives relating to the status of the board's  
16 budget areas of responsibility assigned to the board, including  
17 outreach programs, grants made and received, federal funding  
18 applied for and received, special projects, and oversight of water  
19 conservation district activities.

20 Sec. 201.029. MANAGEMENT AUDIT. (a) Not later than March  
21 1, 2004, the state auditor, in coordination with the Legislative  
22 Budget Board, shall conduct a management audit of the State Soil and  
23 Water Conservation Board and deliver the audit report to the  
24 governor, the lieutenant governor, and the speaker of the house of  
25 representatives. The audit shall include an evaluation of the  
26 administrative budget for the board.

27 (b) This section expires April 1, 2004.

1           SECTION 5. In making initial appointments to the State Soil  
2 and Water Conservation Board under Section 201.011, Agriculture  
3 Code, as amended by this Act, the governor shall designate one  
4 member to serve a term expiring February 1, 2004, and the other  
5 member to serve a term expiring February 1, 2005.

6           SECTION 6. The State Soil and Water Conservation Board  
7 shall prepare and deliver the first report required by Section  
8 201.028, Agriculture Code, as added by this Act, not later than  
9 January 1, 2004.

10          SECTION 7. This Act takes effect September 1, 2003.

# ADOPTED

MAY 01 2003

*Atty. Gen.*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *A. J. ...*

Amend C.S.S.B. 1828 as follows:

(1) In SECTION 4 of the bill (Senate Committee Printing, page 1, line 44), strike "201.028 and 201.029" and substitute "201.028, 201.029, and 201.030".

(2) Insert the following between SECTIONS 4 and 5 of the bill (Senate Committee Printing, page 1, between lines 60 and 61):

Sec. 201.030. CONFLICT OF INTEREST. A member of the state board may not have an interest in any agreement or contract to which the state board is a party.

# HOUSE COMMITTEE REPORT

2017 22 APR 23  
LEGISLATIVE REPRESENTATIVE

1<sup>st</sup> Printing

By: Averitt  
(Swinford)  
Substitute the following for S.B. No. 1828:

S.B. No. 1828

By: Hardcastle

C.S.S.B. No. 1828

A BILL TO BE ENTITLED

AN ACT

relating to the composition and duties of the State Soil and Water  
Conservation Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 201.011, Agriculture Code, is amended to  
read as follows:

Sec. 201.011. COMPOSITION. (a) The State Soil and Water  
Conservation Board is a state agency composed of seven [~~five~~]  
members as follows:

(1) [~~with~~] one member elected from each of the state  
districts in accordance with this subchapter; and

(2) two members appointed by the governor, each of  
whom is:

(A) actively engaged in the business of farming,  
animal husbandry, or other business related to agriculture and who  
wholly or partly owns or leases land used in connection with that  
business; and

(B) not a member of the board of directors of a  
conservation district, but meets the qualifications listed under  
Section 201.072.

(b) For the purposes of this section, the term "actively  
engaged" refers to a person who derives at least 51 percent of the  
person's income from farming, animal husbandry, or other business  
related to agriculture and who wholly or partly owns land used in

1 connection with that business.

2 SECTION 2. Section 201.015(b), Agriculture Code, is amended  
3 to read as follows:

4 (b) The term of office of an elected [a] member of the state  
5 board begins on the day after the day on which the member was  
6 elected. The term of one member appointed by the governor expires  
7 February 1 of each odd-numbered year, and the term of the other  
8 member appointed by the governor expires February 1 of each  
9 even-numbered year.

10 SECTION 3. Subchapter B, Chapter 201, Agriculture Code, is  
11 amended by adding Section 201.0152 to read as follows:

12 Sec. 201.0152. APPLICATION. Sections 201.0141, 201.0142,  
13 and 201.0151 apply to the governor's appointees under this chapter.

14 SECTION 4. Sections 201.016, Agriculture Code, is amended  
15 to read as follows:

16 Sec. 201.016. VACANCY. Vacancies in the state district  
17 positions on the state board are filled by election in the manner  
18 provided by this subchapter for an unexpired term or for a full  
19 term.

20 SECTION 5. Section 201.019(a) and (d), Agriculture Code,  
21 are amended to read as follows:

22 (a) The state board shall designate one of its elected  
23 members as chairman.

24 (d) The state board may delegate any power or duty under  
25 this chapter to its chairman, one or more of its elected members, or  
26 one of more of its agents or employees.

27 SECTION 6. Subchapter B, Chapter 201, Agriculture Code, is

amended by adding Sections 201.028 and 201.029 to read as follows:

Sec. 201.028. SEMIANNUAL REPORT. Not later than January 1 and July 1 of each year, the state board shall prepare and deliver to the governor, the lieutenant governor, and the speaker of the house of representatives a report relating to the status of the board's activities, including outreach programs, grants made and received, federal funding applied for and received, any special projects, and the board's oversight of water conservation district activities.

Sec. 201.029. MANAGEMENT AUDIT. (a) Not later than March 1, 2004, the state auditor, in coordination with the Legislative Budget Board, shall conduct a management audit of the state board and deliver a report of the audit to the governor, the lieutenant governor, and the speaker of the house of representatives. The audit must include an evaluation of the state board's administrative budget.

(b) This section expires April 1, 2004.

SECTION 7. Sections 203.011, 203.012, 203.013, 203.016, and 203.051, Agriculture Code, are amended to read as follows:

Sec. 203.011. AUTHORITY OF BOARD. The board has jurisdiction over and, with the assistance of local districts, shall administer the brush control program under this chapter.

Sec. 203.012. RULES. The board, after consulting with local districts, shall adopt reasonable rules that are necessary to carry out this chapter.

Sec. 203.013. AUTHORITY OF DISTRICTS. Each district [~~in which all or part of a critical area is located~~] may carry out the

responsibilities provided by Subchapter D [~~of this code~~] as delegated by the board [~~in that critical area~~].

Sec. 203.016. CONSULTATION. The State Soil and Water Conservation Board [~~board~~] shall consult with:

(1) the Texas Water Development Board in regard to the effects of the brush control program on water quantity;

(2) the department in regard to the effects of the brush control program on agriculture; and

(3) the Parks and Wildlife Department in regard to the effects of the brush control program on fish and wildlife.

Sec. 203.051. STATE PLAN. The board shall prepare and adopt a state brush control plan that shall:

(1) include a comprehensive strategy for managing brush in all areas of the state where brush is contributing to a substantial water conservation problem; and

(2) rank [~~designate~~] areas of [~~critical need in~~] the state in need of a [~~which to implement the~~] brush control program, as provided by Section 203.053.

SECTION 8. Sections 203.052(b), (c), and (d), Agriculture Code, are amended to read as follows:

(b) Not less than 30 days before the date the hearing is to be held, the board shall mail written notice of the hearing to each district in the state. The notice must:

(1) include the date and place for holding the hearing;

(2) [~~and must~~] state the purpose for holding the hearing; and



1           (3) include instructions for each district to submit  
2 written comments on the proposed plan.

3           (c) At the hearing, representatives of a district and any  
4 other person may appear and present testimony including information  
5 and suggestions for any changes in the proposed plan. The board  
6 shall enter into the record any written comments received on the  
7 proposed plan and shall consider all written comments and testimony  
8 before taking final action on the plan.

9           (d) After the conclusion of the hearing, the board shall  
10 consider the testimony, including the information and suggestions  
11 made at the hearing and in written comments, and [7] after making any  
12 changes in the proposed plan that it finds necessary, the board  
13 shall adopt the plan.

14           SECTION 9. Sections 203.053, 203.055, and 203.101,  
15 Agriculture Code, are amended to read as follows:

16           Sec. 203.053. CRITERIA FOR EVALUATING BRUSH CONTROL  
17 [DESIGNATING CRITICAL] AREAS. (a) In ranking [~~designating~~  
18 ~~critical~~] areas under the plan, the board shall consider:

19                   (1) the location of various brush infestations;  
20                   (2) the type and severity of [~~various~~] brush  
21 infestations;

22                   (3) the various management methods that may be used to  
23 control brush; [~~and~~]

24                   (4) the amount of water produced by a project and the  
25 severity of water shortage in the project area; and

26                   (5) any other criteria that the board considers  
27 relevant to assure that the brush control program can be most

effectively, efficiently, and economically implemented.

(b) In ranking [~~designating critical~~] areas, the board shall give priority to areas with the most critical water conservation needs and in which brush control and revegetation projects will be most likely to produce substantial water conservation.

Sec. 203.055. APPROVED METHODS FOR BRUSH CONTROL. (a) The board shall study and must approve all methods used to control brush under this chapter [~~Act~~] considering the overall impact of the project [~~will have within critical areas~~].

(b) The board may approve a method for use under the cost-sharing program provided by Subchapter E [~~of this chapter~~] if the board finds that the proposed method:

(1) has proven to be an effective and efficient method for controlling brush;

(2) is cost efficient;

(3) will have a beneficial impact on the development of water sources and wildlife habitat;

(4) will maintain topsoil to prevent erosion or silting of any river or stream; and

(5) will allow the revegetation of the area after the brush is removed with plants that are beneficial to stream flows, groundwater levels, and livestock and wildlife.

Sec. 203.101. GENERAL AUTHORITY. Each district may administer the aspects of the brush control program [~~within any critical area located~~] within the jurisdiction of that district.

SECTION 10. Section 203.154, Agriculture Code, is amended

1 by amending Subsections (a) and (c) and adding Subsections (d) and  
2 (e) to read as follows:

3 (a) Not more than 70 ~~[80]~~ percent of the total cost of a  
4 single brush control project may be made available as the state's  
5 share in cost sharing.

6 (c) The board may grant an exception to Subsection (b) ~~[of~~  
7 ~~this section]~~ if the board finds that joint participation of the  
8 state brush control program and any federal brush control program  
9 will:

10 (1) enhance the efficiency and effectiveness of a  
11 project; ~~[and]~~

12 (2) lessen the state's financial commitment to the  
13 project; and

14 (3) not exceed 80 percent of the total cost of the  
15 project.

16 (d) A political subdivision is eligible for cost sharing  
17 under the brush control program, provided that the state's share  
18 may not exceed 50 percent of the total cost of a single project.

19 (e) Notwithstanding any other provision of this section,  
20 100 percent of the total cost of a single project on public lands  
21 may be made available as the state's share in cost sharing.

22 SECTION 11. Sections 203.156, 203.157, and 203.158,  
23 Agriculture Code, are amended to read as follows:

24 Sec. 203.156. APPLICATION FOR COST SHARING. A person,  
25 including a political subdivision, that ~~[who]~~ desires to  
26 participate with the state in a brush control project and to obtain  
27 cost-sharing participation by the state shall file an application

1 with the district board in the district in which the land on which  
2 the project is to be accomplished is located. The application must  
3 be in the form provided by board rules.

4 Sec. 203.157. CONSIDERATIONS IN PASSING ON APPLICATION. In  
5 passing on an application for cost sharing, the board shall  
6 consider:

7 (1) the location of ~~[whether]~~ the project ~~[is to be~~  
8 ~~carried out in a critical area]~~;

9 (2) the method of control that is to be used by the  
10 project applicant;

11 (3) the plans for revegetation;

12 (4) the total cost of the project;

13 (5) the amount of land to be included in the project;

14 (6) whether the applicant for the project is  
15 financially able to provide the applicant's ~~[his]~~ share of the  
16 money for the project;

17 (7) the cost-share percentage, if an applicant agrees  
18 to a higher degree of financial commitment;

19 (8) any comments and recommendations submitted by a  
20 local district, the department, the Texas Water Development Board,  
21 or ~~[of]~~ the Parks and Wildlife Department; and

22 (9) any other pertinent information considered  
23 necessary by the board.

24 Sec. 203.158. APPROVAL OF APPLICATION. The board may  
25 approve an application if, after considering the factors listed in  
26 Section 203.157 ~~[of this code]~~ and any other relevant factors, the  
27 board finds:

1           (1) the owner of the land fully agrees to cooperate in  
2 the project;

3           (2) the method of eradication is a method approved by  
4 the board under Section 203.055 [~~of this code~~]; and

5           (3) the project is a higher priority than other  
6 projects submitted in accordance with [~~to be carried out in a~~  
7 ~~critical area designated under~~] the board's plan.

8           SECTION 12. Sections 203.159(a) and (c), Agriculture Code,  
9 are amended to read as follows:

10          (a) If the demand for funds under the cost-sharing program  
11 is greater than funds available, the board shall [~~may~~] establish  
12 priorities favoring the areas with the most critical water  
13 conservation needs and projects that will be most likely to produce  
14 substantial water conservation.

15          (c) The quantity of stream flows or groundwater or [~~amount~~  
16 ~~of land dedicated to the project that will produce significant~~]  
17 water conservation from the eradication of brush is a consideration  
18 in assigning priority.

19          SECTION 13. (a) Section 203.001(5), Agriculture Code, is  
20 repealed.

21          (b) Section 203.155, Agriculture Code, is repealed.

22          SECTION 14. In making initial appointments to the State  
23 Soil and Water Conservation Board under Section 201.011,  
24 Agriculture Code, as amended by this Act, the governor shall  
25 designate one member to serve a term expiring February 1, 2004, and  
26 one member to serve a term expiring February 1, 2005.

27          SECTION 15. The State Soil and Water Conservation Board

C.S.S.B. No. 1828

1 shall prepare and deliver the first report required by Section  
2 201.028, Agriculture Code, as added by this Act, not later than  
3 January 1, 2004.

4 SECTION 16. This Act takes effect September 1, 2003.

COMMITTEE REPORT

The Honorable Tom Craddick  
Speaker of the House of Representatives

5-20-03  
(date)

Sir:

We, your COMMITTEE ON AGRICULTURE AND LIVESTOCK

to whom was referred SB 1828 have had the same under consideration and beg to report back with the recommendation that it

- ( ) do pass, without amendment.
- ( ) do pass, with amendment(s).
- (X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- (X) yes ( ) no A fiscal note was requested.
- ( ) yes (X) no A criminal justice policy impact statement was requested.
- ( ) yes (X) no An equalized educational funding impact statement was requested.
- ( ) yes (X) no An actuarial analysis was requested.
- ( ) yes (X) no A water development policy impact statement was requested.
- ( ) yes (X) no A tax equity note was requested.
- ( ) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor Swinford

Joint Sponsors: \_\_\_\_\_

Co-Sponsors: \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Hardcastle, Chair	✓			
Miller, Vice-chair	✓			
Brown, B.	✓			
Burnam		✓		
Jones, D.		✓		
Laney		✓		
Swinford	✓			

Total      4      aye  
                 3      nay  
                 0      present, not voting  
                 0      absent

[Signature]  
CHAIR

## **BILL ANALYSIS**

C.S.S.B. 1828  
By: Averitt  
Agriculture & Livestock  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, the Texas State Soil and Water Conservation Board is an agency of the state. C.S.S.B. 1828 amends the statutes governing the Texas State Soil and Water Conservation Board to increase the number of the Board members and to increase the efficiency of the Board.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B.1828 expands the board membership of the State Soil and Water Conservation Board (Board) from five to seven members. The bill sets forth the membership requirements for the two members appointed by the governor, provisions for filling a vacancy, and terms for the Board members. The bill requires the chair of the state board to be one of its elected members. The bill sets forth reporting requirements of the Board to be prepared and delivered to the governor, lieutenant governor, and the speaker of the house of representatives. The bill requires an audit to be conducted by the state auditor not later than March 1, 2004, to be delivered to the governor, lieutenant governor, and the speaker of the house of representatives. The bill requires the Board to consult with local districts before administering and adopting rules for the brush control program. The bill adds the Texas Water Development Board and the Texas Department of Agriculture as agencies, in addition to the Texas Parks and Wildlife Department, that the Board shall consult with in regard to the effects of brush control projects. The bill requires the Board to prepare a state plan that ranks areas of the state in need of brush control, rather than designating critical areas in need and it sets forth notice of hearing requirements and criteria for evaluating brush control areas. The bill provides limits on cost sharing participation by the state, with exceptions. The bill amends sections relating to passing on applications for cost sharing. The bill allows 100% of the total cost of brush control projects on public lands be made available as the state's share in cost sharing. The bill removes permissive language and requires the Board to establish priorities favoring areas with the most critical water conservation needs. The bill repeals two sections in the Agriculture Code relating to the term "critical area" which is removed from previous sections. The bill directs the governor, when making his initial appointments to the State Soil and Water Conservation Board, to appoint one member with a term expiring February 1, 2004, and the second member with a term expiring February 1, 2005.

### **EFFECTIVE DATE**

September 1, 2003.



## **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute modifies the original by adding qualification requirements for the governor appointees. The substitute further requires that the chair of the board be an elected member of the board whereas the original does not. The substitute modifies the authority of the board relating to the brush control program including approved methods for brush control and considerations in passing on an application whereas the original does not. The substitute repeals two sections of the Agriculture Code relating to the term "critical areas" whereas the original does not. A provision in the original relating to conflict of interest for a member of the state board is not included in the substitute.

SUMMARY OF COMMITTEE ACTION

SB 1828

May 20, 2003                      8:00AM

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Considered in public hearing  
Testimony taken in committee (See attached witness list.)  
Committee substitute considered in committee  
Left pending in committee

May 20, 2003                      upon final adjourn./recess

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Considered in formal meeting  
Committee substitute considered in committee  
Amendment(s) considered in committee  
Reported favorably as substituted

WITNESS LIST

SB 1828  
HOUSE COMMITTEE REPORT  
Agriculture & Livestock Committee

May 20, 2003 - 8:00AM

For:	Dodier, Jr., Jose (Self and Assn of Texas Soil & Water Conservation Districts)
	Small, Ed (Texas & Southwestern Cattle Raisers)
Against:	Henderson, Jerry (Jack SWCD)
	Howe, Billy (Texas Farm Bureau)
	Mathiews, J.C. (Self)
	Paschall, Jim B. (Self and Wise SWC District)
	Richmond, Jule (Self)
	White, Leland (Lynn Co. S.W.C.D. Dist. 119)
On:	Albrecht, Edward (Texas State Soil & Water Board)
	Crumley, W.T. "Dub" (Texas State Soil & Water Conservation Board (present Vice Chairman))
	Moore, James (Texas State Soil and Water Conservation Board)

Committee Substitute (Hardcastle)

For:	Rhodes, Denise (Self)
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**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**May 22, 2003**

**TO:** Honorable Rick Hardcastle, Chair, House Committee on Agriculture & Livestock

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE:** **SB1828** by Averitt (Relating to the composition and duties of the State Soil and Water Conservation Board. ), **Committee Report 2nd House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
---

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 308 State Auditor's Office, 551 Department of Agriculture, 580 Water Development Board, 592 Soil and Water Conservation Board, 802 Parks and Wildlife Department

**LBB Staff:** JK, CL, TL

5

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**  
Revision 1

**May 20, 2003**

**TO:** Honorable Rick Hardcastle, Chair, House Committee on Agriculture & Livestock

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: SB1828** by Averitt (Relating to the composition and duties of the State Soil and Water Conservation Board.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would add two members to the Soil and Water Conservation Board. It would also require the state auditor in coordination with the Legislative Budget Board to perform an audit and submit a report to the governor, lieutenant governor, and the speaker of the house of representatives not later than March 1, 2004.

There would likely be some additional travel and per diem costs for the additional board members. It is expected that these costs would not be significant, and that the Soil and Water Conservation Board could absorb additional costs using existing staff and resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 308 State Auditor's Office, 592 Soil and Water Conservation Board

**LBB Staff:** JK, CL, GO, TL

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**May 11, 2003**

**TO:** Honorable Rick Hardcastle, Chair, House Committee on Agriculture & Livestock

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: SB1828** by Averitt (Relating to the composition and duties of the State Soil and Water Conservation Board.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would add two members to the Soil and Water Conservation Board. It would also require the agency to perform an audit and submit a report to the Legislature.

There would likely be some additional travel and per diem costs for the additional board members. There would also be additional costs associated with the preparation of the audit and report required by the bill. It is expected that these costs would not be significant, and that the Soil and Water Conservation Board could absorb additional costs using existing staff and resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 592 Soil and Water Conservation Board

**LBB Staff:** JK, CL, GO, TL

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**April 25, 2003**

**TO:** Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: SB1828** by Averitt (Relating to the composition and duties of the State Soil and Water Conservation Board.), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would add two members to the Soil and Water Conservation Board. It would also require the agency to perform an audit and submit a report to the Legislature.

There would likely be some additional travel and per diem costs for the additional board members. There would also be additional costs associated with the preparation of the audit and report required by the bill. It is expected that these costs would not be significant, and that the Soil and Water Conservation Board could absorb additional costs using existing staff and resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 592 Soil and Water Conservation Board

**LBB Staff:** JK, GO, TL

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**April 15, 2003**

**TO:** Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: SB1828** by Averitt (Relating to the transfer of the State Soil and Water Conservation Board to the Department of Agriculture.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1828, As Introduced: a positive impact of \$2,134,391 through the biennium ending August 31, 2005.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2004	\$1,067,195
2005	\$1,067,196
2006	\$1,067,196
2007	\$1,067,196
2008	\$1,067,196

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from GENERAL REVENUE FUND 1</b>	<b>Change in Number of State Employees from FY 2003</b>
2004	\$1,067,195	(11.5)
2005	\$1,067,196	(21.0)
2006	\$1,067,196	(21.0)
2007	\$1,067,196	(21.0)
2008	\$1,067,196	(21.0)

**Fiscal Analysis**

This bill transfers the functions of the State Soil and Water Conservation Board to the Department of Agriculture. These functions include: Brush Control, Technical Assistance to Soil and Water Conservation (SWC) Districts, Pollution Abatement, and Statewide Management Planning. The board would function under the direction of the Agriculture Commissioner, who would designate one of the board members as the chairman. The board would develop and implement policies that clearly separated the respective responsibilities of the state board and the staff of the board.

**Methodology**

According to the Department of Agriculture (TDA) the transfer of the State Soil and Water Conservation Board (TSSWCB) functions to TDA would result in a biennial savings to General Revenue of \$2,134,391. This savings would be realized through a reduction in FTEs and the associated administrative costs needed to implement TSSWCB's Brush Control and Pollution



#### Abatement functions.

TDA has had prior experience in administering Brush Control grants and anticipates being able to distribute these grants without needing any of the four FTEs currently associated with the program, resulting in a biennial savings of \$150,947 in General Revenue. TDA also proposes to combine Pollution Abatement with the Technical Assistance to SWC Districts function. According to the agency, this action would be phased in beginning in fiscal year 2004 and would result in a total reduction of 15 FTEs in fiscal year 2005 and an associated \$1,983,444 biennial savings in administrative costs.

TDA also anticipates a reduction to the FTEs associated with Statewide Management Planning. This function is primarily funded from federal dollars. TSSWCB originally requested six FTEs to implement this program in the upcoming biennium. It is anticipated that because TDA already has established relationships with EPA and an infrastructure to handle EPA grants, TDA could operate this program with only four FTEs resulting in a further reduction of two FTEs.

#### Technology

No significant fiscal impact to technology.

#### Local Government Impact

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 551 Department of Agriculture, 592 Soil and Water Conservation Board

**LBB Staff:** JK, WP, GO, MS, TL, JF

**ADOPTED**

MAY 26 2003

*Robert Henry*  
Chief Clerk  
House of Representatives

By: Aueritt

S.B. No. 1828

Substitute the following for S.B. No. 1828:

By: Hardcastle

C.S. S.B. No. 1828

A BILL TO BE ENTITLED

AN ACT

relating to the composition and duties of the State Soil and Water Conservation Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 201.011, Agriculture Code, is amended to read as follows:

Sec. 201.011. COMPOSITION. (a) The State Soil and Water Conservation Board is a state agency composed of seven [~~five~~] members as follows:

(1) [~~with~~] one member elected from each of the state districts in accordance with this subchapter; and

(2) two members appointed by the governor, each of whom is:

(A) actively engaged in the business of farming, animal husbandry, or other business related to agriculture and who wholly or partly owns or leases land used in connection with that business; and

(B) not a member of the board of directors of a conservation district, but meets the qualifications listed under Section 201.072.

(b) For the purposes of this section, the term "actively engaged" refers to a person who derives at least 51 percent of the person's income from farming, animal husbandry, or other business related to agriculture and who wholly or partly owns land used in

1 connection with that business.

2 SECTION 2. Section 201.015(b), Agriculture Code, is amended  
3 to read as follows:

4 (b) The term of office of an elected [a] member of the state  
5 board begins on the day after the day on which the member was  
6 elected. The term of one member appointed by the governor expires  
7 February 1 of each odd-numbered year, and the term of the other  
8 member appointed by the governor expires February 1 of each  
9 even-numbered year.

10 SECTION 3. Subchapter B, Chapter 201, Agriculture Code, is  
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12 Sec. 201.0152. APPLICATION. Sections 201.0141, 201.0142,  
13 and 201.0151 apply to the governor's appointees under this chapter.

14 SECTION 4. Sections 201.016, Agriculture Code, is amended  
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16 Sec. 201.016. VACANCY. Vacancies in the state district  
17 positions on the state board are filled by election in the manner  
18 provided by this subchapter for an unexpired term or for a full  
19 term.

20 SECTION 5. Section 201.019(a) and (d), Agriculture Code,  
21 are amended to read as follows:

22 (a) The state board shall designate one of its elected  
23 members as chairman.

24 (d) The state board may delegate any power or duty under  
25 this chapter to its chairman, one or more of its elected members, or  
26 one of more of its agents or employees.

27 SECTION 6. Subchapter B, Chapter 201, Agriculture Code, is

1 amended by adding Sections 201.028 and 201.029 to read as follows:

2       Sec. 201.028. SEMIANNUAL REPORT. Not later than January 1  
3 and July 1 of each year, the state board shall prepare and deliver  
4 to the governor, the lieutenant governor, and the speaker of the  
5 house of representatives a report relating to the status of the  
6 board's activities, including outreach programs, grants made and  
7 received, federal funding applied for and received, any special  
8 projects, and the board's oversight of water conservation district  
9 activities.

10       Sec. 201.029. MANAGEMENT AUDIT. (a) Not later than March  
11 1, 2004, the state auditor, in coordination with the Legislative  
12 Budget Board, shall conduct a management audit of the state board  
13 and deliver a report of the audit to the governor, the lieutenant  
14 governor, and the speaker of the house of representatives. The  
15 audit must include an evaluation of the state board's  
16 administrative budget.

17       (b) This section expires April 1, 2004.

18       SECTION 7. Sections 203.011, 203.012, 203.013, 203.016, and  
19 203.051, Agriculture Code, are amended to read as follows:

20       Sec. 203.011. AUTHORITY OF BOARD. The board has  
21 jurisdiction over and, with the assistance of local districts,  
22 shall administer the brush control program under this chapter.

23       Sec. 203.012. RULES. The board, after consulting with  
24 local districts, shall adopt reasonable rules that are necessary to  
25 carry out this chapter.

26       Sec. 203.013. AUTHORITY OF DISTRICTS. Each district [~~in~~  
27 ~~which all or part of a critical area is located~~] may carry out the

responsibilities provided by Subchapter D [~~of this code~~] as delegated by the board [~~in that critical area~~].

Sec. 203.016. CONSULTATION. The State Soil and Water Conservation Board [~~board~~] shall consult with:

(1) the Texas Water Development Board in regard to the effects of the brush control program on water quantity;

(2) the department in regard to the effects of the brush control program on agriculture; and

(3) the Parks and Wildlife Department in regard to the effects of the brush control program on fish and wildlife.

Sec. 203.051. STATE PLAN. The board shall prepare and adopt a state brush control plan that shall:

(1) include a comprehensive strategy for managing brush in all areas of the state where brush is contributing to a substantial water conservation problem; and

(2) rank [~~designate~~] areas of [~~critical need in~~] the state in need of a [~~which to implement the~~] brush control program, as provided by Section 203.053.

SECTION 8. Sections 203.052(b), (c), and (d), Agriculture Code, are amended to read as follows:

(b) Not less than 30 days before the date the hearing is to be held, the board shall mail written notice of the hearing to each district in the state. The notice must:

(1) include the date and place for holding the hearing;

(2) [~~and must~~] state the purpose for holding the hearing; and

1           (3) include instructions for each district to submit  
2 written comments on the proposed plan.

3           (c) At the hearing, representatives of a district and any  
4 other person may appear and present testimony including information  
5 and suggestions for any changes in the proposed plan. The board  
6 shall enter into the record any written comments received on the  
7 proposed plan and shall consider all written comments and testimony  
8 before taking final action on the plan.

9           (d) After the conclusion of the hearing, the board shall  
10 consider the testimony, including the information and suggestions  
11 made at the hearing and in written comments, and [7] after making any  
12 changes in the proposed plan that it finds necessary, the board  
13 shall adopt the plan.

14           SECTION 9. Sections 203.053, 203.055, and 203.101,  
15 Agriculture Code, are amended to read as follows:

16           Sec. 203.053. CRITERIA FOR EVALUATING BRUSH CONTROL  
17 [DESIGNATING CRITICAL] AREAS. (a) In ranking [~~designating~~  
18 ~~critical~~] areas under the plan, the board shall consider:

19                   (1) the location of various brush infestations;

20                   (2) the type and severity of [~~various~~] brush  
21 infestations;

22                   (3) the various management methods that may be used to  
23 control brush; [~~and~~]

24                   (4) the amount of water produced by a project and the  
25 severity of water shortage in the project area; and

26                   (5) any other criteria that the board considers  
27 relevant to assure that the brush control program can be most

1 effectively, efficiently, and economically implemented.

2 (b) In ranking [~~designating critical~~] areas, the board  
3 shall give priority to areas with the most critical water  
4 conservation needs and in which brush control and revegetation  
5 projects will be most likely to produce substantial water  
6 conservation.

7 Sec. 203.055. APPROVED METHODS FOR BRUSH CONTROL. (a) The  
8 board shall study and must approve all methods used to control brush  
9 under this chapter [~~Act~~] considering the overall impact of the  
10 project [~~will have within critical areas~~].

11 (b) The board may approve a method for use under the  
12 cost-sharing program provided by Subchapter E [~~of this chapter~~] if  
13 the board finds that the proposed method:

14 (1) has proven to be an effective and efficient method  
15 for controlling brush;

16 (2) is cost efficient;

17 (3) will have a beneficial impact on the development  
18 of water sources and wildlife habitat;

19 (4) will maintain topsoil to prevent erosion or  
20 silting of any river or stream; and

21 (5) will allow the revegetation of the area after the  
22 brush is removed with plants that are beneficial to stream flows,  
23 groundwater levels, and livestock and wildlife.

24 Sec. 203.101. GENERAL AUTHORITY. Each district may  
25 administer the aspects of the brush control program [~~within any~~  
26 ~~critical area located~~] within the jurisdiction of that district.

27 SECTION 10. Section 203.154, Agriculture Code, is amended

1 by amending Subsections (a) and (c) and adding Subsections (d) and  
2 (e) to read as follows:

3 (a) Not more than 70 ~~[80]~~ percent of the total cost of a  
4 single brush control project may be made available as the state's  
5 share in cost sharing.

6 (c) The board may grant an exception to Subsection (b) ~~[of~~  
7 ~~this section]~~ if the board finds that joint participation of the  
8 state brush control program and any federal brush control program  
9 will:

10 (1) enhance the efficiency and effectiveness of a  
11 project; ~~[and]~~

12 (2) lessen the state's financial commitment to the  
13 project; and

14 (3) not exceed 80 percent of the total cost of the  
15 project.

16 (d) A political subdivision is eligible for cost sharing  
17 under the brush control program, provided that the state's share  
18 may not exceed 50 percent of the total cost of a single project.

19 (e) Notwithstanding any other provision of this section,  
20 100 percent of the total cost of a single project on public lands  
21 may be made available as the state's share in cost sharing.

22 SECTION 11. Sections 203.156, 203.157, and 203.158,  
23 Agriculture Code, are amended to read as follows:

24 Sec. 203.156. APPLICATION FOR COST SHARING. A person,  
25 including a political subdivision, that ~~[who]~~ desires to  
26 participate with the state in a brush control project and to obtain  
27 cost-sharing participation by the state shall file an application



1 with the district board in the district in which the land on which  
2 the project is to be accomplished is located. The application must  
3 be in the form provided by board rules.

4 Sec. 203.157. CONSIDERATIONS IN PASSING ON APPLICATION. In  
5 passing on an application for cost sharing, the board shall  
6 consider:

7 (1) the location of ~~[whether]~~ the project ~~[is to be~~  
8 ~~carried out in a critical area]~~;

9 (2) the method of control that is to be used by the  
10 project applicant;

11 (3) the plans for revegetation;

12 (4) the total cost of the project;

13 (5) the amount of land to be included in the project;

14 (6) whether the applicant for the project is  
15 financially able to provide the applicant's ~~[his]~~ share of the  
16 money for the project;

17 (7) the cost-share percentage, if an applicant agrees  
18 to a higher degree of financial commitment;

19 (8) any comments and recommendations submitted by a  
20 local district, the department, the Texas Water Development Board,  
21 or ~~[of]~~ the Parks and Wildlife Department; and

22 (9) any other pertinent information considered  
23 necessary by the board.

24 Sec. 203.158. APPROVAL OF APPLICATION. The board may  
25 approve an application if, after considering the factors listed in  
26 Section 203.157 ~~[of this code]~~ and any other relevant factors, the  
27 board finds:

1           (1) the owner of the land fully agrees to cooperate in  
2 the project;

3           (2) the method of eradication is a method approved by  
4 the board under Section 203.055 [~~of this code~~]; and

5           (3) the project is a higher priority than other  
6 projects submitted in accordance with [~~to be carried out in a~~  
7 ~~critical area designated under~~] the board's plan.

8           SECTION 12. Sections 203.159(a) and (c), Agriculture Code,  
9 are amended to read as follows:

10          (a) If the demand for funds under the cost-sharing program  
11 is greater than funds available, the board shall [~~may~~] establish  
12 priorities favoring the areas with the most critical water  
13 conservation needs and projects that will be most likely to produce  
14 substantial water conservation.

15          (c) The quantity of stream flows or groundwater or [~~amount~~  
16 ~~of land dedicated to the project that will produce significant~~]  
17 water conservation from the eradication of brush is a consideration  
18 in assigning priority.

19          SECTION 13. (a) Section 203.001(5), Agriculture Code, is  
20 repealed.

21          (b) Section 203.155, Agriculture Code, is repealed.

22          SECTION 14. In making initial appointments to the State  
23 Soil and Water Conservation Board under Section 201.011,  
24 Agriculture Code, as amended by this Act, the governor shall  
25 designate one member to serve a term expiring February 1, 2004, and  
26 one member to serve a term expiring February 1, 2005.

27          SECTION 15. The State Soil and Water Conservation Board

1 shall prepare and deliver the first report required by Section  
2 201.028, Agriculture Code, as added by this Act, not later than  
3 January 1, 2004.

4 SECTION 16. This Act takes effect September 1, 2003.

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 31, 2003

Date

**ADOPTED**

JUN 01 2003

*Larry Spaw*  
Secretary of the Senate

Honorable David Dewhurst  
President of the Senate

Honorable Tom Craddick  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on Senate Bill 1828 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

*Averitt*  
Sen. Kip Averitt, Chair

Sen. Rodney Ellis

*Robert Duncan*  
Sen. Robert Duncan

*Bivins*  
Sen. Teel Bivins

*Ken Armbrister*  
On the part of the Senate  
Sen. Ken Armbrister

*Rep. Swinford*  
Rep. Swinford, Chair

*Rep. Hardcastle*  
Rep. Hardcastle

*Carter Casteel*  
Rep. Casteel

*Warren Chisum*  
Rep. Chisum

On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

MAY 31 2003 6:40 pm

CONFERENCE COMMITTEE REPORT

S.B. No. 1828

A BILL TO BE ENTITLED

AN ACT

relating to the composition and duties of the State Soil and Water Conservation Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 201.011, Agriculture Code, is amended to read as follows:

Sec. 201.011. COMPOSITION. The State Soil and Water Conservation Board is a state agency composed of seven [~~five~~] members as follows:

(1) [~~with~~] one member elected from each of the state districts in accordance with this subchapter; and

(2) two members appointed by the governor, each of whom is:

(A) actively engaged in the business of farming, animal husbandry, or other business related to agriculture and who wholly or partly owns or leases land used in connection with that business; and

(B) not a member of the board of directors of a conservation district.

SECTION 2. <sup>Subsection (b),</sup> Section 201.015<sup>4</sup>, Agriculture Code, is amended to read as follows:

(b) The term of office of an elected [~~a~~] member of the state board begins on the day after the day on which the member was elected. The term of one member appointed by the governor expires

1 February 1 of each odd-numbered year, and the term of the other  
2 member appointed by the governor expires February 1 of each  
3 even-numbered year.

4 SECTION 3. Subchapter B, Chapter 201, Agriculture Code, is  
5 amended by adding Section 201.0152 to read as follows:

6 Sec. 201.0152. APPLICATION. Sections 201.0141, 201.0142,  
7 and 201.0151 apply to the governor's appointees under this chapter.

8 SECTION 4. Section 201.016, Agriculture Code, is amended to  
9 read as follows:

10 Sec. 201.016. VACANCY. Vacancies in the state district  
11 positions on the state board are filled by election in the manner  
12 provided by this subchapter for an unexpired term or for a full  
13 term.

14 SECTION 5. Subchapter B, Chapter 201, Agriculture Code, is  
15 amended by adding Sections 201.028 and 201.029 to read as follows:

16 Sec. 201.028. SEMIANNUAL REPORT. Not later than January 1  
17 and July 1 of each year, the state board shall prepare and deliver  
18 to the governor, the lieutenant governor, and the speaker of the  
19 house of representatives a report relating to the status of the  
20 budget areas of responsibility assigned to the board, including  
21 outreach programs, grants made and received, federal funding  
22 applied for and received, special projects, and oversight of water  
23 conservation district activities.

24 Sec. 201.029. MANAGEMENT AUDIT. (a) Not later than March  
25 1, 2004, the state auditor, in coordination with the Legislative  
26 Budget Board, shall conduct a management audit of the State Soil and  
27 Water Conservation Board and deliver the audit report to the

1 governor, the lieutenant governor, and the speaker of the house of  
2 representatives. The audit report must include an evaluation of  
3 the administrative budget for the board.

4 (b) This section expires April 1, 2004.

5 SECTION 6. Sections 203.011, 203.012, 203.013, 203.016, and  
6 203.051, Agriculture Code, are amended to read as follows:

7 Sec. 203.011. AUTHORITY OF BOARD. The board has  
8 jurisdiction over and, with the assistance of local districts,  
9 shall administer the brush control program under this chapter.

10 Sec. 203.012. RULES. The board, after consulting with  
11 local districts, shall adopt reasonable rules that are necessary to  
12 carry out this chapter.

13 Sec. 203.013. AUTHORITY OF DISTRICTS. Each district [~~in~~  
14 ~~which all or part of a critical area is located~~] may carry out the  
15 responsibilities provided by Subchapter D [~~of this code~~] as  
16 delegated by the board [~~in that critical area~~].

17 Sec. 203.016. CONSULTATION. The State Soil and Water  
18 Conservation Board [~~board~~] shall consult with:

19 (1) the Texas Water Development Board in regard to the  
20 effects of the brush control program on water quantity;

21 (2) the department in regard to the effects of the  
22 brush control program on agriculture; and

23 (3) the Parks and Wildlife Department in regard to the  
24 effects of the brush control program on fish and wildlife.

25 Sec. 203.051. STATE PLAN. The board shall prepare and adopt  
26 a state brush control plan that shall:

27 (1) include a comprehensive strategy for managing

brush in all areas of the state where brush is contributing to a substantial water conservation problem; and

(2) rank ~~[designate]~~ areas of ~~[critical need in]~~ the state in need of a ~~[which to implement the]~~ brush control program, as provided by Section 203.053.

SECTION 7. <sup>Subsections (b), (c), and (d),</sup> Sections ~~203.052 (b), (c), and (d),~~ Agriculture Code, are amended to read as follows:

(b) Not less than 30 days before the date the hearing is to be held, the board shall mail written notice of the hearing to each district in the state. The notice must:

(1) include the date and place for holding the hearing;

(2) ~~[and must]~~ state the purpose for holding the hearing; and

(3) include instructions for each district to submit written comments on the proposed plan.

(c) At the hearing, representatives of a district and any other person may appear and present testimony including information and suggestions for any changes in the proposed plan. The board shall enter into the record any written comments received on the proposed plan and shall consider all written comments and testimony before taking final action on the plan.

(d) After the conclusion of the hearing, the board shall consider the testimony, including the information and suggestions made at the hearing and in written comments, and ~~[7]~~ after making any changes in the proposed plan that it finds necessary, the board shall adopt the plan.



SECTION 8. Sections 203.053, 203.055, and 203.101, Agriculture Code, are amended to read as follows:

Sec. 203.053. CRITERIA FOR EVALUATING BRUSH CONTROL ~~[DESIGNATING CRITICAL]~~ AREAS. (a) In ranking ~~[designating critical]~~ areas under the plan, the board shall consider:

(1) the location of various brush infestations;

(2) the type and severity of ~~[various]~~ brush infestations;

(3) the various management methods that may be used to control brush; ~~[and]~~

(4) the amount of water produced by a project and the severity of water shortage in the project area; and

(5) any other criteria that the board considers relevant to assure that the brush control program can be most effectively, efficiently, and economically implemented.

(b) In ranking ~~[designating critical]~~ areas, the board shall give priority to areas with the most critical water conservation needs and in which brush control and revegetation projects will be most likely to produce substantial water conservation.

Sec. 203.055. APPROVED METHODS FOR BRUSH CONTROL. (a) The board shall study and must approve all methods used to control brush under this chapter ~~[Act]~~ considering the overall impact of the project ~~[will have within critical areas]~~.

(b) The board may approve a method for use under the cost-sharing program provided by Subchapter E ~~[of this chapter]~~ if the board finds that the proposed method:

(1) has proven to be an effective and efficient method for controlling brush;

(2) is cost efficient;

(3) will have a beneficial impact on the development of water sources and wildlife habitat;

(4) will maintain topsoil to prevent erosion or silting of any river or stream; and

(5) will allow the revegetation of the area after the brush is removed with plants that are beneficial to stream flows, groundwater levels, and livestock and wildlife.

Sec. 203.101. GENERAL AUTHORITY. Each district may administer the aspects of the brush control program [~~within any critical area located~~] within the jurisdiction of that district.

SECTION 9. Section 203.154, Agriculture Code, is amended by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows:

(a) Not more than 70 [~~80~~] percent of the total cost of a single brush control project may be made available as the state's share in cost sharing.

(c) The board may grant an exception to Subsection (b) [~~of this section~~] if the board finds that joint participation of the state brush control program and any federal brush control program will:

(1) enhance the efficiency and effectiveness of a project; [~~and~~]

(2) lessen the state's financial commitment to the project; and

(3) not exceed 80 percent of the total cost of the project.

(d) A political subdivision is eligible for cost sharing under the brush control program, provided that the state's share may not exceed 50 percent of the total cost of a single project.

(e) Notwithstanding any other provision of this section, 100 percent of the total cost of a single project on public lands may be made available as the state's share in cost sharing.

SECTION 10. Sections 203.156, 203.157, and 203.158, Agriculture Code, are amended to read as follows:

Sec. 203.156. APPLICATION FOR COST SHARING. A person, including a political subdivision, that ~~[who]~~ desires to participate with the state in a brush control project and to obtain cost-sharing participation by the state shall file an application with the district board in the district in which the land on which the project is to be accomplished is located. The application must be in the form provided by board rules.

Sec. 203.157. CONSIDERATIONS IN PASSING ON APPLICATION. In passing on an application for cost sharing, the board shall consider:

(1) the location of ~~[whether]~~ the project ~~[is to be carried out in a critical area]~~;

(2) the method of control that is to be used by the project applicant;

(3) the plans for revegetation;

(4) the total cost of the project;

(5) the amount of land to be included in the project;

(6) whether the applicant for the project is financially able to provide his share of the money for the project;

(7) the cost-share percentage, if an applicant agrees to a higher degree of financial commitment;

(8) any comments and recommendations submitted by a local district, the department, the Texas Water Development Board, or [of] the Parks and Wildlife Department; and

(9) any other pertinent information considered necessary by the board.

Sec. 203.158. APPROVAL OF APPLICATION. The board may approve an application if, after considering the factors listed in Section 203.157 [~~of this code~~] and any other relevant factors, the board finds:

(1) the owner of the land fully agrees to cooperate in the project;

(2) the method of eradication is a method approved by the board under Section 203.055 [~~of this code~~]; and

(3) the project is a higher priority than other projects submitted in accordance with [~~to be carried out in a critical area designated under~~] the board's plan.

*Subsections (a) and (c),*  
SECTION 11. *Sections* 203.159 ~~(a) and (c)~~, Agriculture Code, are amended to read as follows:

(a) If the demand for funds under the cost-sharing program is greater than funds available, the board shall [~~may~~] establish priorities favoring the areas with the most critical water conservation needs and projects that will be most likely to produce substantial water conservation.

1 (c) The quantity of stream flows or groundwater or ~~[amount~~  
2 ~~of land dedicated to the project that will produce significant]~~  
3 water conservation from the eradication of brush is a consideration  
4 in assigning priority.

5 SECTION 12. (a) <sup>Subdivision (5),</sup> Section 203.001~~(5)~~, Agriculture Code, is  
6 repealed.

7 (b) Section 203.155, Agriculture Code, is repealed.

8 SECTION 13. In making initial appointments to the State  
9 Soil and Water Conservation Board under Section 201.011,  
10 Agriculture Code, as amended by this Act, the governor shall  
11 designate one member to serve a term expiring February 1, 2004, and  
12 the other member to serve a term expiring February 1, 2005.

13 SECTION 14. The State Soil and Water Conservation Board  
14 shall prepare and deliver the first report required by Section  
15 201.028, Agriculture Code, as added by this Act, not later than  
16 January 1, 2004.

17 SECTION 15. This Act takes effect September 1, 2003.

**Senate Bill 1828**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
SECTION 1. Amends Section 201.011, Agriculture Code. Section 201.011. Composition. Increase the number of State Soil and Water Conservation Board from five to seven, with two members <i>appointed</i> by the governor, who meet certain requirements including (a) being actively engaged in the business of farming, animal husbandry, or a related agricultural business and who owns or leases land in connection with that business and (b) not being a member of the board of directors of a conservation district.	SECTION 1. Same as Senate version, except requires the members <i>appointed</i> by the governor (b) to meet qualifications listed under Section 201.072 and further clarifies that a person who is "actively engaged" derives at least 51 percent of the person's income from farming, animal husbandry, or a related agricultural business.	SECTION 1. Same as Senate version.
SECTION 2. Amends Section 201.015(b) relating to terms of office for members of the board.	SECTION 2. Same as Senate version.	SECTION 2. Same as Senate version.
No equivalent provision.	SECTION 3. Adds Section 201.0152, Chapter 201, Agriculture Code. Application. Sections 201.0141, 201.0142, and 201.0151 apply to the governor's appointees under this chapter.	SECTION 3. Same as House version.
SECTION 3. Amends Section 201.016, Agriculture Code, Vacancy. Provides for filling vacancies on the state board <i>for state district positions</i> .	SECTION 4. Same as Senate version, except provides for filling vacancies <i>in the state district positions</i> on the state board.	SECTION 4. Same as House version.
No equivalent provision.	SECTION 5. Amends Section 201.019(a) to provide that the state board will designate one of its <i>elected</i> members as chairman.	Same as Senate version.
SECTION 4. Amends Chapter 201, Agriculture Code, to add Sections 201.028, 201.029, and 201.030.	SECTION 6. Similar to Senate version, but does not add Section 201.030.	SECTION 5. Same as House version.

**Senate Bill 1828**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
Section 201.028. Semiannual Report. Not later than January 1 and July 1 of each year, the state board shall prepare and deliver to the governor, the lieutenant governor, and the speaker of the house of representatives a report relating to the status of the budget areas of responsibility assigned to the board, including outreach programs, grants made and received, federal funding applied for and received, special projects, and oversight of water conservation district activities.	Section 201.028. Same as Senate version, except deletes reference to the <i>budget areas of responsibility assigned to the board</i> .	Section 201.028. Same as Senate version.
Section 201.029. Management Audit. Provides that the state auditor and Legislative Budget Board conduct an audit of the <i>State Soil and Water Conservation Board</i> .	Section 201.029. Same as Senate version, except provides that the audit is of the <i>state board</i> .	Section 201.029. Same as Senate version
Section 201.030. Conflict of Interest. Provides that a member of the state board may not have an interest in any agreement or contract to which the state board is a party.	No equivalent provision.	Same as House version.
No equivalent provision.	SECTION 7. Amends Sections 203.011, 203.012, 203.013, 203.016, and 203.051, Agriculture Code.	SECTION 6. Same as House version.
No equivalent provision.	Section 203.011. Authority of Board. Provides that the board shall administer the brush control program with the assistance of local districts.	Section 203.011. Same as House version.
No equivalent provision.	Section 203.012. Rules. Requires the board to consult with local districts prior to adopting reasonable rules that are necessary to carry out this chapter	Section 203.012. Same as House version.

**Senate Bill 1828**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
No equivalent provision.	Section 203.013. Authority of Districts. Makes conforming changes to authorize each district to carry out the responsibilities provided by Subchapter D as delegated by the board.	Section 203.013. Same as House version.
No equivalent provision.	Section 203.016. Consultation. Requires the State Soil and Water Conservation Board to consult with: (1) the Texas Water Development Board in regard to the effects of the brush control program on water quantity; (2) the department in regard to the effects of the brush control program on agriculture; and (3) the Parks and Wildlife Department in regard to the effects of the brush control program on fish and wildlife.	Section 203.016. Same as House version.
No equivalent provision.	Section 203.051. State Plan. Requires the board to prepare and adopt a state brush control plan that: (1) includes all areas of the state where brush is contributing to a substantial water conservation problem in a comprehensive strategy for managing brush; and (2) to rank areas of the state in need of a brush control program, as provided by Section 203.053.	Section 203.051. Same as House version.
No equivalent provision.	SECTION 8. Amends Sections 203.052(b), (c), and (d), Agriculture Code. (b) Requires that the written notice of hearing the board mails to each district in the state include instructions for each district to submit written comments on the proposed plan. (c) Requires the board to enter into the record any written comments received at a hearing on the proposed plan and to consider all written comments and testimony before taking final action on the plan. (d) Requires	SECTION 7. Same as House version.



**Senate Bill 1828**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
	the board to consider the written comments as well as the testimony made at a hearing prior to adopting a plan.	
No equivalent provision.	SECTION 9. Amends Sections 203.053, 203.055, and 203.101, Agriculture Code.	SECTION 8. Same as House version.
No equivalent provision.	Section 203.053. Criteria for Evaluating Brush Control Areas. Requires the board, when ranking areas under the plan, to consider the amount of water produced by a project and the severity of water shortage in the project area.	Same as House version.
No equivalent provision.	Section 203.055. Approved Methods for Brush Control. Adds having a beneficial impact on the <i>development of water sources</i> and will allow revegetation of the area with plants that are beneficial to <i>stream flows and groundwater levels</i> to the list of findings the board may use to approve a method for use under the cost-sharing program provided by Subchapter E.	Same as House version.
No equivalent provision.	Section 203.101. General Authority. Provides that each district may administer the aspects of the brush control program within the jurisdiction of that district.	Same as House version.
No equivalent provision.	SECTION 10. Amends Section 203.154, Agriculture Code, by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows: (a) Reduces the percent of the total cost of a single brush control project that may be made available as the state's share in cost sharing from 80 to 70 percent. (c) Provides that the board may grant an exception	SECTION 9. Same as House version.

**Senate Bill 1828**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
	to Subsection (b) if the board finds that joint participation of the state brush control program and any federal brush control program will not exceed 80 percent of the total cost of the project. (d) Provides that a political subdivision is eligible for cost sharing under the brush control program, provided that the state's share may not exceed 50 percent of the total cost of a single project. (e) Provides that, notwithstanding any other provision of this section, 100 percent of the total cost of a single project on public lands may be made available as the state's share in cost sharing.	
No equivalent provision.	SECTION 11. Amends Sections 203.156, 203.157, and 203.158, Agriculture Code.	SECTION 10. Same as House version.
No equivalent provision.	Section 203.156. Application for Cost Sharing. Authorizes a political subdivision, as well as a person, that desires to participate with the state in a brush control project and to obtain cost-sharing participation by the state to file an application with the district board in the district.	Same as House version.
No equivalent provision.	Section 203.157. Considerations in Passing on Application. Adds to the list of requirements the board is required to consider in passing on an application for cost sharing the location of a project and any comments submitted by a local district, the department, and the Texas Water Development Board.	Same as House version.
No equivalent provision.	Section 203.158. Approval of Application. Adds to the list of relevant factors the board considers in approving an	Same as House version.

**Senate Bill 1828**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
	application to include finding that a project is a higher priority than other projects submitted in accordance with the board's plan.	
No equivalent provision.	SECTION 12. Amends Sections 203.159(a) and (c), Agriculture Code. (a) Requires rather than authorizes the board to establish priorities in the demand for funds under the cost-sharing program is greater than the funds available. (c) Provides that the quantity of stream flows or groundwater or water conservation from the eradication of brush is a consideration in assigning priority.	SECTION 11. Same as House version.
No equivalent provision.	SECTION 13. (a) Repeals Section 203.001(5), Agriculture Code. (b) Repeals Section 203.155, Agriculture Code.	SECTION 12. Same as House version.
SECTION 5. In making initial appointments to the State Soil and Water Conservation Board under Section 201.011, Agriculture Code, as amended by this Act, the governor shall designate one member to serve a term expiring February 1, 2004, and the other member to serve a term expiring February 1, 2005.	SECTION 14. Same as Senate version.	SECTION 13. Same as Senate version.
SECTION 6. The State Soil and Water Conservation Board shall prepare and deliver the first report required by Section 201.028, Agriculture Code, as added by this Act, not later than January 1, 2004.	SECTION 15. Same as Senate version.	SECTION 14 Same as Senate version.
SECTION 7. Effective date.	SECTION 16. Same as Senate version.	SECTION 15. Same as Senate version.

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 31, 2003

Date

Honorable David Dewhurst  
President of the Senate

Honorable Tom Craddick  
Speaker of the House of Representatives

Sirs:

**ADOPTED**

JUN 01 2003

Robert Haney  
Chief Clerk  
House of Representatives

W a NRV

HOUSE OF REPRESENTATIVES

03 JUN -1 AM 11:15

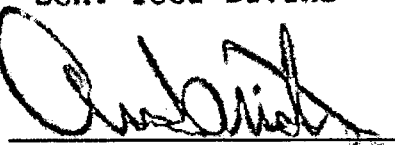
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on Senate Bill 1020 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

  
Don. Rip Averitt, Chair

Don. Rodney Ellis

  
Don. Robert Duncan

  
Don. Tom Davis

  
On the part of the Senate  
Don. Ron Ambriator

  
Rep. Swinford, Chair

Rep. Hardcastle

  
Rep. Cantrell

  
Rep. Chisum

On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

S.B. No. 1828

A BILL TO BE ENTITLED

AN ACT

relating to the composition and duties of the State Soil and Water Conservation Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 201.011, Agriculture Code, is amended to read as follows:

Sec. 201.011. COMPOSITION. The State Soil and Water Conservation Board is a state agency composed of seven [~~five~~] members as follows:

(1) [~~with~~] one member elected from each of the state districts in accordance with this subchapter; and

(2) two members appointed by the governor, each of whom is:

(A) actively engaged in the business of farming, animal husbandry, or other business related to agriculture and who wholly or partly owns or leases land used in connection with that business; and

(B) not a member of the board of directors of a conservation district.

SECTION 2. Section 201.015(b), Agriculture Code, is amended to read as follows:

(b) The term of office of an elected [~~a~~] member of the state board begins on the day after the day on which the member was elected. The term of one member appointed by the governor expires

1 February 1 of each odd-numbered year, and the term of the other  
2 member appointed by the governor expires February 1 of each  
3 even-numbered year.

4 SECTION 3. Subchapter B, Chapter 201, Agriculture Code, is  
5 amended by adding Section 201.0152 to read as follows:

6 Sec. 201.0152. APPLICATION. Sections 201.0141, 201.0142,  
7 and 201.0151 apply to the governor's appointees under this chapter.

8 SECTION 4. Section 201.016, Agriculture Code, is amended to  
9 read as follows:

10 Sec. 201.016. VACANCY. Vacancies in the state district  
11 positions on the state board are filled by election in the manner  
12 provided by this subchapter for an unexpired term or for a full  
13 term.

14 SECTION 5. Subchapter B, Chapter 201, Agriculture Code, is  
15 amended by adding Sections 201.028 and 201.029 to read as follows:

16 Sec. 201.028. SEMIANNUAL REPORT. Not later than January 1  
17 and July 1 of each year, the state board shall prepare and deliver  
18 to the governor, the lieutenant governor, and the speaker of the  
19 house of representatives a report relating to the status of the  
20 budget areas of responsibility assigned to the board, including  
21 outreach programs, grants made and received, federal funding  
22 applied for and received, special projects, and oversight of water  
23 conservation district activities.

24 Sec. 201.029. MANAGEMENT AUDIT. (a) Not later than March  
25 1, 2004, the state auditor, in coordination with the Legislative  
26 Budget Board, shall conduct a management audit of the State Soil and  
27 Water Conservation Board and deliver the audit report to the

1 governor, the lieutenant governor, and the speaker of the house of  
2 representatives. The audit report must include an evaluation of  
3 the administrative budget for the board.

4 (b) This section expires April 1, 2004.

5 SECTION 6. Sections 203.011, 203.012, 203.013, 203.016, and  
6 203.051, Agriculture Code, are amended to read as follows:

7 Sec. 203.011. AUTHORITY OF BOARD. The board has  
8 jurisdiction over and, with the assistance of local districts,  
9 shall administer the brush control program under this chapter.

10 Sec. 203.012. RULES. The board, after consulting with  
11 local districts, shall adopt reasonable rules that are necessary to  
12 carry out this chapter.

13 Sec. 203.013. AUTHORITY OF DISTRICTS. Each district [~~in~~  
14 ~~which all or part of a critical area is located~~] may carry out the  
15 responsibilities provided by Subchapter D [~~of this code~~] as  
16 delegated by the board [~~in that critical area~~].

17 Sec. 203.016. CONSULTATION. The State Soil and Water  
18 Conservation Board [~~board~~] shall consult with:

19 (1) the Texas Water Development Board in regard to the  
20 effects of the brush control program on water quantity;

21 (2) the department in regard to the effects of the  
22 brush control program on agriculture; and

23 (3) the Parks and Wildlife Department in regard to the  
24 effects of the brush control program on fish and wildlife.

25 Sec. 203.051. STATE PLAN. The board shall prepare and adopt  
26 a state brush control plan that shall:

27 (1) include a comprehensive strategy for managing

brush in all areas of the state where brush is contributing to a substantial water conservation problem; and

(2) rank [~~designate~~] areas of [~~critical need in~~] the state in need of a [~~which to implement the~~] brush control program, as provided by Section 203.053.

SECTION 7. Sections 203.052(b), (c), and (d), Agriculture Code, are amended to read as follows:

(b) Not less than 30 days before the date the hearing is to be held, the board shall mail written notice of the hearing to each district in the state. The notice must:

(1) include the date and place for holding the hearing;

(2) [~~and must~~] state the purpose for holding the hearing; and

(3) include instructions for each district to submit written comments on the proposed plan.

(c) At the hearing, representatives of a district and any other person may appear and present testimony including information and suggestions for any changes in the proposed plan. The board shall enter into the record any written comments received on the proposed plan and shall consider all written comments and testimony before taking final action on the plan.

(d) After the conclusion of the hearing, the board shall consider the testimony, including the information and suggestions made at the hearing and in written comments, and [7] after making any changes in the proposed plan that it finds necessary, the board shall adopt the plan.



SECTION 8. Sections 203.053, 203.055, and 203.101, Agriculture Code, are amended to read as follows:

Sec. 203.053. CRITERIA FOR EVALUATING BRUSH CONTROL ~~[DESIGNATING CRITICAL]~~ AREAS. (a) In ranking ~~[designating critical]~~ areas under the plan, the board shall consider:

(1) the location of various brush infestations;

(2) the type and severity of ~~[various]~~ brush infestations;

(3) the various management methods that may be used to control brush; ~~[and]~~

(4) the amount of water produced by a project and the severity of water shortage in the project area; and

(5) any other criteria that the board considers relevant to assure that the brush control program can be most effectively, efficiently, and economically implemented.

(b) In ranking ~~[designating critical]~~ areas, the board shall give priority to areas with the most critical water conservation needs and in which brush control and revegetation projects will be most likely to produce substantial water conservation.

Sec. 203.055. APPROVED METHODS FOR BRUSH CONTROL. (a) The board shall study and must approve all methods used to control brush under this chapter ~~[Act]~~ considering the overall impact of the project ~~[will have within critical areas]~~.

(b) The board may approve a method for use under the cost-sharing program provided by Subchapter E ~~[of this chapter]~~ if the board finds that the proposed method:

(1) has proven to be an effective and efficient method for controlling brush;

(2) is cost efficient;

(3) will have a beneficial impact on the development of water sources and wildlife habitat;

(4) will maintain topsoil to prevent erosion or silting of any river or stream; and

(5) will allow the revegetation of the area after the brush is removed with plants that are beneficial to stream flows, groundwater levels, and livestock and wildlife.

Sec. 203.101. GENERAL AUTHORITY. Each district may administer the aspects of the brush control program [~~within any critical area located~~] within the jurisdiction of that district.

SECTION 9. Section 203.154, Agriculture Code, is amended by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows:

(a) Not more than 70 [~~80~~] percent of the total cost of a single brush control project may be made available as the state's share in cost sharing.

(c) The board may grant an exception to Subsection (b) [~~of this section~~] if the board finds that joint participation of the state brush control program and any federal brush control program will:

(1) enhance the efficiency and effectiveness of a project; [~~and~~]

(2) lessen the state's financial commitment to the project; and

(3) not exceed 80 percent of the total cost of the project.

(d) A political subdivision is eligible for cost sharing under the brush control program, provided that the state's share may not exceed 50 percent of the total cost of a single project.

(e) Notwithstanding any other provision of this section, 100 percent of the total cost of a single project on public lands may be made available as the state's share in cost sharing.

SECTION 10. Sections 203.156, 203.157, and 203.158, Agriculture Code, are amended to read as follows:

Sec. 203.156. APPLICATION FOR COST SHARING. A person, including a political subdivision, that ~~[who]~~ desires to participate with the state in a brush control project and to obtain cost-sharing participation by the state shall file an application with the district board in the district in which the land on which the project is to be accomplished is located. The application must be in the form provided by board rules.

Sec. 203.157. CONSIDERATIONS IN PASSING ON APPLICATION. In passing on an application for cost sharing, the board shall consider:

(1) the location of ~~[whether]~~ the project ~~[is to be carried out in a critical area];~~

(2) the method of control that is to be used by the project applicant;

(3) the plans for revegetation;

(4) the total cost of the project;

(5) the amount of land to be included in the project;

(6) whether the applicant for the project is financially able to provide his share of the money for the project;

(7) the cost-share percentage, if an applicant agrees to a higher degree of financial commitment;

(8) any comments and recommendations submitted by a local district, the department, the Texas Water Development Board, or [of] the Parks and Wildlife Department; and

(9) any other pertinent information considered necessary by the board.

Sec. 203.158. APPROVAL OF APPLICATION. The board may approve an application if, after considering the factors listed in Section 203.157 [~~of this code~~] and any other relevant factors, the board finds:

(1) the owner of the land fully agrees to cooperate in the project;

(2) the method of eradication is a method approved by the board under Section 203.055 [~~of this code~~]; and

(3) the project is a higher priority than other projects submitted in accordance with [~~to be carried out in a critical area designated under~~] the board's plan.

SECTION 11. Sections 203.159(a) and (c), Agriculture Code, are amended to read as follows:

(a) If the demand for funds under the cost-sharing program is greater than funds available, the board shall [~~may~~] establish priorities favoring the areas with the most critical water conservation needs and projects that will be most likely to produce substantial water conservation.

1           (c) The quantity of stream flows or groundwater or [~~amount~~  
2 ~~of land dedicated to the project that will produce significant~~]  
3 water conservation from the eradication of brush is a consideration  
4 in assigning priority.

5           SECTION 12. (a) Section 203.001(5), Agriculture Code, is  
6 repealed.

7           (b) Section 203.155, Agriculture Code, is repealed.

8           SECTION 13. In making initial appointments to the State  
9 Soil and Water Conservation Board under Section 201.011,  
10 Agriculture Code, as amended by this Act, the governor shall  
11 designate one member to serve a term expiring February 1, 2004, and  
12 the other member to serve a term expiring February 1, 2005.

13          SECTION 14. The State Soil and Water Conservation Board  
14 shall prepare and deliver the first report required by Section  
15 201.028, Agriculture Code, as added by this Act, not later than  
16 January 1, 2004.

17          SECTION 15. This Act takes effect September 1, 2003.

**Senate Bill 1828**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
SECTION 1. Amends Section 201.011, Agriculture Code. Section 201.011. Composition. Increase the number of State Soil and Water Conservation Board from five to seven, with two members <i>appointed</i> by the governor, who meet certain requirements including (a) being actively engaged in the business of farming, animal husbandry, or a related agricultural business and who owns or leases land in connection with that business and (b) not being a member of the board of directors of a conservation district.	SECTION 1. Same as Senate version, except requires the members <i>appointed</i> by the governor (b) to meet qualifications listed under Section 201.072 and further clarifies that a person who is "actively engaged" derives at least 51 percent of the person's income from farming, animal husbandry, or a related agricultural business.	SECTION 1. Same as Senate version.
SECTION 2. Amends Section 201.015(b) relating to terms of office for members of the board.	SECTION 2. Same as Senate version.	SECTION 2. Same as Senate version.
No equivalent provision.	SECTION 3. Adds Section 201.0152, Chapter 201, Agriculture Code. Application. Sections 201.0141, 201.0142, and 201.0151 apply to the governor's appointees under this chapter.	SECTION 3. Same as House version.
SECTION 3. Amends Section 201.016, Agriculture Code, Vacancy. Provides for filling vacancies on the state board <i>for state district positions</i> .	SECTION 4. Same as Senate version, except provides for filling vacancies <i>in the state district positions</i> on the state board.	SECTION 4. Same as House version.
No equivalent provision.	SECTION 5. Amends Section 201.019(a) to provide that the state board will designate one of its <i>elected</i> members as chairman.	Same as Senate version.
SECTION 4. Amends Chapter 201, Agriculture Code, to add Sections 201.028, 201.029, and 201.030.	SECTION 6. Similar to Senate version, but does not add Section 201.030.	SECTION 5. Same as House version.

**Senate Bill 1828**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
Section 201.028. Semiannual Report. Not later than January 1 and July 1 of each year, the state board shall prepare and deliver to the governor, the lieutenant governor, and the speaker of the house of representatives a report relating to the status of the budget areas of responsibility assigned to the board, including outreach programs, grants made and received, federal funding applied for and received, special projects, and oversight of water conservation district activities.	Section 201.028. Same as Senate version, except deletes reference to the <i>budget areas of responsibility assigned to the board</i> .	Section 201.028. Same as Senate version.
Section 201.029. Management Audit. Provides that the state auditor and Legislative Budget Board conduct an audit of the <i>State Soil and Water Conservation Board</i> .	Section 201.029. Same as Senate version, except provides that the audit is of the <i>state board</i> .	Section 201.029. Same as Senate version
Section 201.030. Conflict of Interest. Provides that a member of the state board may not have an interest in any agreement or contract to which the state board is a party.	No equivalent provision.	Same as House version.
No equivalent provision.	SECTION 7. Amends Sections 203.011, 203.012, 203.013, 203.016, and 203.051, Agriculture Code.	SECTION 6. Same as House version.
No equivalent provision.	Section 203.011. Authority of Board. Provides that the board shall administer the brush control program with the assistance of local districts.	Section 203.011. Same as House version.
No equivalent provision.	Section 203.012. Rules. Requires the board to consult with local districts prior to adopting reasonable rules that are necessary to carry out this chapter	Section 203.012. Same as House version.

**Senate Bill 1828**  
**Conference Committee Report**  
**Section-by-Section Analysis**

SENATE VERSION	HOUSE VERSION	CONFERENCE
No equivalent provision.	Section 203.013. Authority of Districts. Makes conforming changes to authorize each district to carry out the responsibilities provided by Subchapter D as delegated by the board.	Section 203.013. Same as House version.
No equivalent provision.	Section 203.016. Consultation. Requires the State Soil and Water Conservation Board to consult with: (1) the Texas Water Development Board in regard to the effects of the brush control program on water quantity; (2) the department in regard to the effects of the brush control program on agriculture; and (3) the Parks and Wildlife Department in regard to the effects of the brush control program on fish and wildlife.	Section 203.016. Same as House version.
No equivalent provision.	Section 203.051. State Plan. Requires the board to prepare and adopt a state brush control plan that: (1) includes all areas of the state where brush is contributing to a substantial water conservation problem in a comprehensive strategy for managing brush; and (2) to rank areas of the state in need of a brush control program, as provided by Section 203.053.	Section 203.051. Same as House version.
No equivalent provision.	SECTION 8. Amends Sections 203.052(b), (c), and (d), Agriculture Code. (b) Requires that the written notice of hearing the board mails to each district in the state include instructions for each district to submit written comments on the proposed plan. (c) Requires the board to enter into the record any written comments received at a hearing on the proposed plan and to consider all written comments and testimony before taking final action on the plan. (d) Requires	SECTION 7. Same as House version.



**Senate Bill 1828**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
	the board to consider the written comments as well as the testimony made at a hearing prior to adopting a plan.	
No equivalent provision.	SECTION 9. Amends Sections 203.053, 203.055, and 203.101, Agriculture Code.	SECTION 8. Same as House version.
No equivalent provision.	Section 203.053. Criteria for Evaluating Brush Control Areas. Requires the board, when ranking areas under the plan, to consider the amount of water produced by a project and the severity of water shortage in the project area.	Same as House version.
No equivalent provision.	Section 203.055. Approved Methods for Brush Control. Adds having a beneficial impact on the <i>development of water sources</i> and will allow revegetation of the area with plants that are beneficial to <i>stream flows and groundwater levels</i> to the list of findings the board may use to approve a method for use under the cost-sharing program provided by Subchapter E.	Same as House version.
No equivalent provision.	Section 203.101. General Authority. Provides that each district may administer the aspects of the brush control program within the jurisdiction of that district.	Same as House version.
No equivalent provision.	SECTION 10. Amends Section 203.154, Agriculture Code, by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows: (a) Reduces the percent of the total cost of a single brush control project that may be made availabl as the state's share in cost sharing from 80 to 70 percent. (c) Provides that the board may grant an exception	SECTION 9. Same as House version.

**Senate Bill 1828**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
	to Subsection (b) if the board finds that joint participation of the state brush control program and any federal brush control program will not exceed 80 percent of the total cost of the project. (d) Provides that a political subdivision is eligible for cost sharing under the brush control program, provided that the state's share may not exceed 50 percent of the total cost of a single project. (e) Provides that, notwithstanding any other provision of this section, 100 percent of the total cost of a single project on public lands may be made available as the state's share in cost sharing.	
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**Senate Bill 1828**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
	application to include finding that a project is a higher priority than other projects submitted in accordance with the board's plan.	
No equivalent provision.	SECTION 12. Amends Sections 203.159(a) and (c), Agriculture Code. (a) Requires rather than authorizes the board to establish priorities in the demand for funds under the cost-sharing program is greater than the funds available. (c) Provides that the quantity of stream flows or groundwater or water conservation from the eradication of brush is a consideration in assigning priority.	SECTION 11. Same as House version.
No equivalent provision.	SECTION 13. (a) Repeals Section 203.001(5), Agriculture Code. (b) Repeals Section 203.155, Agriculture Code.	SECTION 12. Same as House version.
SECTION 5. In making initial appointments to the State Soil and Water Conservation Board under Section 201.011, Agriculture Code, as amended by this Act, the governor shall designate one member to serve a term expiring February 1, 2004, and the other member to serve a term expiring February 1, 2005.	SECTION 14. Same as Senate version.	SECTION 13. Same as Senate version.
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SECTION 7. Effective date.	SECTION 16. Same as Senate version.	SECTION 15. Same as Senate version.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**May 31, 2003**

**TO:** Honorable David Dewhurst , Lieutenant Governor, Senate  
Honorable Tom Craddick, Speaker of the House, House of Representatives

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: SB1828** by Averitt (Relating to the composition and duties of the State Soil and Water Conservation Board.), **Conference Committee Report**

<b>No significant fiscal implication to the State is anticipated.</b>
---

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 308 State Auditor's Office, 551 Department of Agriculture, 580 Water Development Board, 592 Soil and Water Conservation Board, 802 Parks and Wildlife Department

**LBB Staff:** JK, CL, TL

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 31, 2003

Date

HOUSE OF REPRESENTATIVES  
JUN - 1 AM 11:15

Honorable David Dewhurst  
President of the Senate

Honorable Tom Craddick  
Speaker of the House of Representatives

Sirs:

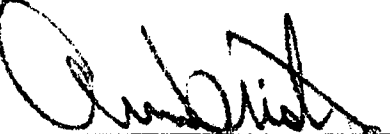
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on Senate Bill 1828 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.


  
Sen. Kip Averitt, Chair

Sen. Rodney Ellis

  
Sen. Robert Duncan


  
Sen. Teel Bivins

  
On the part of the Senate  
Sen. Ken Armbrister

  
Rep. Swinford, Chair

  
Rep. Hardcastle

  
Rep. Casteel

  
Rep. Chisum

On the part of the House

## Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

S.B. No. 1828

A BILL TO BE ENTITLED

AN ACT

relating to the composition and duties of the State Soil and Water  
Conservation Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 201.011, Agriculture Code, is amended to  
read as follows:

Sec. 201.011. COMPOSITION. The State Soil and Water  
Conservation Board is a state agency composed of seven [~~five~~]  
members as follows:

(1) [~~with~~] one member elected from each of the state  
districts in accordance with this subchapter; and

(2) two members appointed by the governor, each of  
whom is:

(A) actively engaged in the business of farming,  
animal husbandry, or other business related to agriculture and who  
wholly or partly owns or leases land used in connection with that  
business; and

(B) not a member of the board of directors of a  
conservation district.

SECTION 2. Section 201.015(b), Agriculture Code, is amended  
to read as follows:

(b) The term of office of an elected [~~a~~] member of the state  
board begins on the day after the day on which the member was  
elected. The term of one member appointed by the governor expires

1 February 1 of each odd-numbered year, and the term of the other  
2 member appointed by the governor expires February 1 of each  
3 even-numbered year.

4 SECTION 3. Subchapter B, Chapter 201, Agriculture Code, is  
5 amended by adding Section 201.0152 to read as follows:

6 Sec. 201.0152. APPLICATION. Sections 201.0141, 201.0142,  
7 and 201.0151 apply to the governor's appointees under this chapter.

8 SECTION 4. Section 201.016, Agriculture Code, is amended to  
9 read as follows:

10 Sec. 201.016. VACANCY. Vacancies in the state district  
11 positions on the state board are filled by election in the manner  
12 provided by this subchapter for an unexpired term or for a full  
13 term.

14 SECTION 5. Subchapter B, Chapter 201, Agriculture Code, is  
15 amended by adding Sections 201.028 and 201.029 to read as follows:

16 Sec. 201.028. SEMIANNUAL REPORT. Not later than January 1  
17 and July 1 of each year, the state board shall prepare and deliver  
18 to the governor, the lieutenant governor, and the speaker of the  
19 house of representatives a report relating to the status of the  
20 budget areas of responsibility assigned to the board, including  
21 outreach programs, grants made and received, federal funding  
22 applied for and received, special projects, and oversight of water  
23 conservation district activities.

24 Sec. 201.029. MANAGEMENT AUDIT. (a) Not later than March  
25 1, 2004, the state auditor, in coordination with the Legislative  
26 Budget Board, shall conduct a management audit of the State Soil and  
27 Water Conservation Board and deliver the audit report to the

1 governor, the lieutenant governor, and the speaker of the house of  
2 representatives. The audit report must include an evaluation of  
3 the administrative budget for the board.

4 (b) This section expires April 1, 2004.

5 SECTION 6. Sections 203.011, 203.012, 203.013, 203.016, and  
6 203.051, Agriculture Code, are amended to read as follows:

7 Sec. 203.011. AUTHORITY OF BOARD. The board has  
8 jurisdiction over and, with the assistance of local districts,  
9 shall administer the brush control program under this chapter.

10 Sec. 203.012. RULES. The board, after consulting with  
11 local districts, shall adopt reasonable rules that are necessary to  
12 carry out this chapter.

13 Sec. 203.013. AUTHORITY OF DISTRICTS. Each district [~~in~~  
14 ~~which all or part of a critical area is located~~] may carry out the  
15 responsibilities provided by Subchapter D [~~of this code~~] as  
16 delegated by the board [~~in that critical area~~].

17 Sec. 203.016. CONSULTATION. The State Soil and Water  
18 Conservation Board [~~board~~] shall consult with:

19 (1) the Texas Water Development Board in regard to the  
20 effects of the brush control program on water quantity;

21 (2) the department in regard to the effects of the  
22 brush control program on agriculture; and

23 (3) the Parks and Wildlife Department in regard to the  
24 effects of the brush control program on fish and wildlife.

25 Sec. 203.051. STATE PLAN. The board shall prepare and adopt  
26 a state brush control plan that shall:

27 (1) include a comprehensive strategy for managing



brush in all areas of the state where brush is contributing to a substantial water conservation problem; and

(2) rank ~~[designate]~~ areas of ~~[critical need in]~~ the state in need of a ~~[which to implement the]~~ brush control program, as provided by Section 203.053.

SECTION 7. Sections 203.052(b), (c), and (d), Agriculture Code, are amended to read as follows:

(b) Not less than 30 days before the date the hearing is to be held, the board shall mail written notice of the hearing to each district in the state. The notice must:

(1) include the date and place for holding the hearing;

(2) ~~[and must]~~ state the purpose for holding the hearing; and

(3) include instructions for each district to submit written comments on the proposed plan.

(c) At the hearing, representatives of a district and any other person may appear and present testimony including information and suggestions for any changes in the proposed plan. The board shall enter into the record any written comments received on the proposed plan and shall consider all written comments and testimony before taking final action on the plan.

(d) After the conclusion of the hearing, the board shall consider the testimony, including the information and suggestions made at the hearing and in written comments, and ~~[r]~~ after making any changes in the proposed plan that it finds necessary, the board shall adopt the plan.

SECTION 8. Sections 203.053, 203.055, and 203.101, Agriculture Code, are amended to read as follows:

Sec. 203.053. CRITERIA FOR EVALUATING BRUSH CONTROL ~~[DESIGNATING CRITICAL]~~ AREAS. (a) In ranking ~~[designating critical]~~ areas under the plan, the board shall consider:

(1) the location of various brush infestations;

(2) the type and severity of ~~[various]~~ brush infestations;

(3) the various management methods that may be used to control brush; ~~[and]~~

(4) the amount of water produced by a project and the severity of water shortage in the project area; and

(5) any other criteria that the board considers relevant to assure that the brush control program can be most effectively, efficiently, and economically implemented.

(b) In ranking ~~[designating critical]~~ areas, the board shall give priority to areas with the most critical water conservation needs and in which brush control and revegetation projects will be most likely to produce substantial water conservation.

Sec. 203.055. APPROVED METHODS FOR BRUSH CONTROL. (a) The board shall study and must approve all methods used to control brush under this chapter ~~[Act]~~ considering the overall impact of the project ~~[will have within critical areas]~~.

(b) The board may approve a method for use under the cost-sharing program provided by Subchapter E ~~[of this chapter]~~ if the board finds that the proposed method:

(1) has proven to be an effective and efficient method for controlling brush;

(2) is cost efficient;

(3) will have a beneficial impact on the development of water sources and wildlife habitat;

(4) will maintain topsoil to prevent erosion or silting of any river or stream; and

(5) will allow the revegetation of the area after the brush is removed with plants that are beneficial to stream flows, groundwater levels, and livestock and wildlife.

Sec. 203.101. GENERAL AUTHORITY. Each district may administer the aspects of the brush control program [~~within any critical area located~~] within the jurisdiction of that district.

SECTION 9. Section 203.154, Agriculture Code, is amended by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows:

(a) Not more than 70 [~~80~~] percent of the total cost of a single brush control project may be made available as the state's share in cost sharing.

(c) The board may grant an exception to Subsection (b) [~~of this section~~] if the board finds that joint participation of the state brush control program and any federal brush control program will:

(1) enhance the efficiency and effectiveness of a project; [~~and~~]

(2) lessen the state's financial commitment to the project; and

(3) not exceed 80 percent of the total cost of the project.

(d) A political subdivision is eligible for cost sharing under the brush control program, provided that the state's share may not exceed 50 percent of the total cost of a single project.

(e) Notwithstanding any other provision of this section, 100 percent of the total cost of a single project on public lands may be made available as the state's share in cost sharing.

SECTION 10. Sections 203.156, 203.157, and 203.158, Agriculture Code, are amended to read as follows:

Sec. 203.156. APPLICATION FOR COST SHARING. A person, including a political subdivision, that ~~[who]~~ desires to participate with the state in a brush control project and to obtain cost-sharing participation by the state shall file an application with the district board in the district in which the land on which the project is to be accomplished is located. The application must be in the form provided by board rules.

Sec. 203.157. CONSIDERATIONS IN PASSING ON APPLICATION. In passing on an application for cost sharing, the board shall consider:

(1) the location of ~~[whether]~~ the project ~~[is to be carried out in a critical area]~~;

(2) the method of control that is to be used by the project applicant;

(3) the plans for revegetation;

(4) the total cost of the project;

(5) the amount of land to be included in the project;

(6) whether the applicant for the project is financially able to provide his share of the money for the project;

(7) the cost-share percentage, if an applicant agrees to a higher degree of financial commitment;

(8) any comments and recommendations submitted by a local district, the department, the Texas Water Development Board, or ~~of~~ the Parks and Wildlife Department; and

(9) any other pertinent information considered necessary by the board.

Sec. 203.158. APPROVAL OF APPLICATION. The board may approve an application if, after considering the factors listed in Section 203.157 [~~of this code~~] and any other relevant factors, the board finds:

(1) the owner of the land fully agrees to cooperate in the project;

(2) the method of eradication is a method approved by the board under Section 203.055 [~~of this code~~]; and

(3) the project is a higher priority than other projects submitted in accordance with [~~to be carried out in a critical area designated under~~] the board's plan.

SECTION 11. Sections 203.159(a) and (c), Agriculture Code, are amended to read as follows:

(a) If the demand for funds under the cost-sharing program is greater than funds available, the board shall [~~may~~] establish priorities favoring the areas with the most critical water conservation needs and projects that will be most likely to produce substantial water conservation.

1           (c) The quantity of stream flows or groundwater or [~~amount~~  
2 ~~of land dedicated to the project that will produce significant~~]  
3 water conservation from the eradication of brush is a consideration  
4 in assigning priority.

5           SECTION 12. (a) Section 203.001(5), Agriculture Code, is  
6 repealed.

7           (b) Section 203.155, Agriculture Code, is repealed.

8           SECTION 13. In making initial appointments to the State  
9 Soil and Water Conservation Board under Section 201.011,  
10 Agriculture Code, as amended by this Act, the governor shall  
11 designate one member to serve a term expiring February 1, 2004, and  
12 the other member to serve a term expiring February 1, 2005.

13          SECTION 14. The State Soil and Water Conservation Board  
14 shall prepare and deliver the first report required by Section  
15 201.028, Agriculture Code, as added by this Act, not later than  
16 January 1, 2004.

17          SECTION 15. This Act takes effect September 1, 2003.

**Senate Bill 1828**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION

SECTION 1. Amends Section 201.011, Agriculture Code. Section 201.011. Composition. Increase the number of State Soil and Water Conservation Board from five to seven, with two members *appointed* by the governor, who meet certain requirements including (a) being actively engaged in the business of farming, animal husbandry, or a related agricultural business and who owns or leases land in connection with that business and (b) not being a member of the board of directors of a conservation district.

SECTION 2. Amends Section 201.015(b) relating to terms of office for members of the board.

No equivalent provision.

SECTION 3. Amends Section 201.016, Agriculture Code, Vacancy. Provides for filling vacancies on the state board *for state district positions*.

No equivalent provision.

SECTION 4. Amends Chapter 201, Agriculture Code, to add Sections 201.028, 201.029, and 201.030.

HOUSE VERSION

SECTION 1. Same as Senate version, except requires the members *appointed* by the governor (b) to meet qualifications listed under Section 201.072 and further clarifies that a person who is "actively engaged" derives at least 51 percent of the person's income from farming, animal husbandry, or a related agricultural business.

SECTION 2. Same as Senate version.

SECTION 3. Adds Section 201.0152, Chapter 201, Agriculture Code. Application. Sections 201.0141, 201.0142, and 201.0151 apply to the governor's appointees under this chapter.

SECTION 4. Same as Senate version, except provides for filling vacancies *in the state district positions* on the state board.

SECTION 5. Amends Section 201.019(a) to provide that the state board will designate one of its *elected* members as chairman.

SECTION 6. Similar to Senate version, but does not add Section 201.030.

CONFERENCE

SECTION 1. Same as Senate version.

SECTION 2. Same as Senate version.

SECTION 3. Same as House version.

SECTION 4. Same as House version.

Same as Senate version.

SECTION 5. Same as House version.

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SENATE VERSION	HOUSE VERSION	CONFERENCE
Section 201.028. Semiannual Report. Not later than January 1 and July 1 of each year, the state board shall prepare and deliver to the governor, the lieutenant governor, and the speaker of the house of representatives a report relating to the status of the budget areas of responsibility assigned to the board, including outreach programs, grants made and received, federal funding applied for and received, special projects, and oversight of water conservation district activities.	Section 201.028. Same as Senate version, except deletes reference to the <i>budget areas of responsibility assigned to the board</i> .	Section 201.028. Same as Senate version.
Section 201.029. Management Audit. Provides that the state auditor and Legislative Budget Board conduct an audit of the <i>State Soil and Water Conservation Board</i> .	Section 201.029. Same as Senate version, except provides that the audit is of the <i>state board</i> .	Section 201.029. Same as Senate version
Section 201.030. Conflict of Interest. Provides that a member of the state board may not have an interest in any agreement or contract to which the state board is a party.	No equivalent provision.	Same as House version.
No equivalent provision.	SECTION 7. Amends Sections 203.011, 203.012, 203.013, 203.016, and 203.051, Agriculture Code.	SECTION 6. Same as House version.
No equivalent provision.	Section 203.011. Authority of Board. Provides that the board shall administer the brush control program with the assistance of local districts.	Section 203.011. Same as House version.
No equivalent provision.	Section 203.012. Rules. Requires the board to consult with local districts prior to adopting reasonable rules that are necessary to carry out this chapter	Section 203.012. Same as House version.



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**HOUSE VERSION**

**CONFERENCE**

No equivalent provision.

Section 203.013. Authority of Districts. Makes conforming changes to authorize each district to carry out the responsibilities provided by Subchapter D as delegated by the board.

Section 203.013. Same as House version.

No equivalent provision.

Section 203.016. Consultation. Requires the State Soil and Water Conservation Board to consult with: (1) the Texas Water Development Board in regard to the effects of the brush control program on water quantity; (2) the department in regard to the effects of the brush control program on agriculture; and (3) the Parks and Wildlife Department in regard to the effects of the brush control program on fish and wildlife.

Section 203.016. Same as House version.

No equivalent provision.

Section 203.051. State Plan. Requires the board to prepare and adopt a state brush control plan that: (1) includes all areas of the state where brush is contributing to a substantial water conservation problem in a comprehensive strategy for managing brush; and (2) to rank areas of the state in need of a brush control program, as provided by Section 203.053.

Section 203.051. Same as House version.

No equivalent provision.

SECTION 8. Amends Sections 203.052(b), (c), and (d), Agriculture Code. (b) Requires that the written notice of hearing the board mails to each district in the state include instructions for each district to submit written comments on the proposed plan. (c) Requires the board to enter into the record any written comments received at a hearing on the proposed plan and to consider all written comments and testimony before taking final action on the plan. (d) Requires

SECTION 7. Same as House version.

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SENATE VERSION	HOUSE VERSION	CONFERENCE
	the board to consider the written comments as well as the testimony made at a hearing prior to adopting a plan.	
No equivalent provision.	SECTION 9. Amends Sections 203.053, 203.055, and 203.101, Agriculture Code.	SECTION 8. Same as House version.
No equivalent provision.	Section 203.053. Criteria for Evaluating Brush Control Areas. Requires the board, when ranking areas under the plan, to consider the amount of water produced by a project and the severity of water shortage in the project area.	Same as House version.
No equivalent provision.	Section 203.055. Approved Methods for Brush Control. Adds having a beneficial impact on the <i>development of water sources</i> and will allow revegetation of the area with plants that are beneficial to <i>stream flows and groundwater levels</i> to the list of findings the board may use to approve a method for use under the cost-sharing program provided by Subchapter E.	Same as House version.
No equivalent provision.	Section 203.101. General Authority. Provides that each district may administer the aspects of the brush control program within the jurisdiction of that district.	Same as House version.
No equivalent provision.	SECTION 10. Amends Section 203.154, Agriculture Code, by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows: (a) Reduces the percent of the total cost of a single brush control project that may be made available as the state's share in cost sharing from 80 to 70 percent. (c) Provides that the board may grant an exception	SECTION 9. Same as House version.

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**SENATE VERSION**

**HOUSE VERSION**

**CONFERENCE**

to Subsection (b) if the board finds that joint participation of the state brush control program and any federal brush control program will not exceed 80 percent of the total cost of the project. (d) Provides that a political subdivision is eligible for cost sharing under the brush control program, provided that the state's share may not exceed 50 percent of the total cost of a single project. (e) Provides that, notwithstanding any other provision of this section, 100 percent of the total cost of a single project on public lands may be made available as the state's share in cost sharing.

No equivalent provision.

SECTION 11. Amends Sections 203.156, 203.157, and 203.158, Agriculture Code.

SECTION 10. Same as House version.

No equivalent provision.

Section 203.156. Application for Cost Sharing. Authorizes a political subdivision, as well as a person, that desires to participate with the state in a brush control project and to obtain cost-sharing participation by the state to file an application with the district board in the district.

Same as House version.

No equivalent provision.

Section 203.157. Considerations in Passing on Application. Adds to the list of requirements the board is required to consider in passing on an application for cost sharing the location of a project and any comments submitted by a local district, the department, and the Texas Water Development Board.

Same as House version.

No equivalent provision.

Section 203.158. Approval of Application. Adds to the list of relevant factors the board considers in approving an

Same as House version.

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SENATE VERSION	HOUSE VERSION	CONFERENCE
	application to include finding that a project is a higher priority than other projects submitted in accordance with the board's plan.	
No equivalent provision.	SECTION 12. Amends Sections 203.159(a) and (c), Agriculture Code. (a) Requires rather than authorizes the board to establish priorities in the demand for funds under the cost-sharing program is greater than the funds available. (c) Provides that the quantity of stream flows or groundwater or water conservation from the eradication of brush is a consideration in assigning priority.	SECTION 11. Same as House version.
No equivalent provision.	SECTION 13. (a) Repeals Section 203.001(5), Agriculture Code. (b) Repeals Section 203.155, Agriculture Code.	SECTION 12. Same as House version.
SECTION 5. In making initial appointments to the State Soil and Water Conservation Board under Section 201.011, Agriculture Code, as amended by this Act, the governor shall designate one member to serve a term expiring February 1, 2004, and the other member to serve a term expiring February 1, 2005.	SECTION 14. Same as Senate version.	SECTION 13. Same as Senate version.
SECTION 6. The State Soil and Water Conservation Board shall prepare and deliver the first report required by Section 201.028, Agriculture Code, as added by this Act, not later than January 1, 2004.	SECTION 15. Same as Senate version.	SECTION 14 Same as Senate version.
SECTION 7. Effective date.	SECTION 16. Same as Senate version.	SECTION 15. Same as Senate version.

Enrolled

June 1, 2003

Mardi Alexander

Enrolling Clerk

S.B. No. 1828

AN ACT

relating to the composition and duties of the State Soil and Water Conservation Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 201.011, Agriculture Code, is amended to read as follows:

Sec. 201.011. COMPOSITION. The State Soil and Water Conservation Board is a state agency composed of seven [~~five~~] members as follows:

(1) [~~with~~] one member elected from each of the state districts in accordance with this subchapter; and

(2) two members appointed by the governor, each of whom is:

(A) actively engaged in the business of farming, animal husbandry, or other business related to agriculture and who wholly or partly owns or leases land used in connection with that business; and

(B) not a member of the board of directors of a conservation district.

SECTION 2. Subsection (b), Section 201.015, Agriculture Code, is amended to read as follows:

(b) The term of office of an elected [~~a~~] member of the state board begins on the day after the day on which the member was elected. The term of one member appointed by the governor expires

1 February 1 of each odd-numbered year, and the term of the other  
2 member appointed by the governor expires February 1 of each  
3 even-numbered year.

4 SECTION 3. Subchapter B, Chapter 201, Agriculture Code, is  
5 amended by adding Section 201.0152 to read as follows:

6 Sec. 201.0152. APPLICATION. Sections 201.0141, 201.0142,  
7 and 201.0151 apply to the governor's appointees under this chapter.

8 SECTION 4. Section 201.016, Agriculture Code, is amended to  
9 read as follows:

10 Sec. 201.016. VACANCY. Vacancies in the state district  
11 positions on the state board are filled by election in the manner  
12 provided by this subchapter for an unexpired term or for a full  
13 term.

14 SECTION 5. Subchapter B, Chapter 201, Agriculture Code, is  
15 amended by adding Sections 201.028 and 201.029 to read as follows:

16 Sec. 201.028. SEMIANNUAL REPORT. Not later than January 1  
17 and July 1 of each year, the state board shall prepare and deliver  
18 to the governor, the lieutenant governor, and the speaker of the  
19 house of representatives a report relating to the status of the  
20 budget areas of responsibility assigned to the board, including  
21 outreach programs, grants made and received, federal funding  
22 applied for and received, special projects, and oversight of water  
23 conservation district activities.

24 Sec. 201.029. MANAGEMENT AUDIT. (a) Not later than March  
25 1, 2004, the state auditor, in coordination with the Legislative  
26 Budget Board, shall conduct a management audit of the State Soil and  
27 Water Conservation Board and deliver the audit report to the

1 governor, the lieutenant governor, and the speaker of the house of  
2 representatives. The audit report must include an evaluation of  
3 the administrative budget for the board.

4 (b) This section expires April 1, 2004.

5 SECTION 6. Sections 203.011, 203.012, 203.013, 203.016, and  
6 203.051, Agriculture Code, are amended to read as follows:

7 Sec. 203.011. AUTHORITY OF BOARD. The board has  
8 jurisdiction over and, with the assistance of local districts,  
9 shall administer the brush control program under this chapter.

10 Sec. 203.012. RULES. The board, after consulting with  
11 local districts, shall adopt reasonable rules that are necessary to  
12 carry out this chapter.

13 Sec. 203.013. AUTHORITY OF DISTRICTS. Each district [~~in~~  
14 ~~which all or part of a critical area is located~~] may carry out the  
15 responsibilities provided by Subchapter D [~~of this code~~] as  
16 delegated by the board [~~in that critical area~~].

17 Sec. 203.016. CONSULTATION. The State Soil and Water  
18 Conservation Board [~~board~~] shall consult with:

19 (1) the Texas Water Development Board in regard to the  
20 effects of the brush control program on water quantity;

21 (2) the department in regard to the effects of the  
22 brush control program on agriculture; and

23 (3) the Parks and Wildlife Department in regard to the  
24 effects of the brush control program on fish and wildlife.

25 Sec. 203.051. STATE PLAN. The board shall prepare and adopt  
26 a state brush control plan that shall:

27 (1) include a comprehensive strategy for managing

brush in all areas of the state where brush is contributing to a substantial water conservation problem; and

(2) rank [~~designate~~] areas of [~~critical need in~~] the state in need of a [~~which to implement the~~] brush control program, as provided by Section 203.053.

SECTION 7. Subsections (b), (c), and (d), Section 203.052, Agriculture Code, are amended to read as follows:

(b) Not less than 30 days before the date the hearing is to be held, the board shall mail written notice of the hearing to each district in the state. The notice must:

(1) include the date and place for holding the hearing;

(2) [~~and must~~] state the purpose for holding the hearing; and

(3) include instructions for each district to submit written comments on the proposed plan.

(c) At the hearing, representatives of a district and any other person may appear and present testimony including information and suggestions for any changes in the proposed plan. The board shall enter into the record any written comments received on the proposed plan and shall consider all written comments and testimony before taking final action on the plan.

(d) After the conclusion of the hearing, the board shall consider the testimony, including the information and suggestions made at the hearing and in written comments, and [7] after making any changes in the proposed plan that it finds necessary, the board shall adopt the plan.



SECTION 8. Sections 203.053, 203.055, and 203.101, Agriculture Code, are amended to read as follows:

Sec. 203.053. CRITERIA FOR EVALUATING BRUSH CONTROL ~~[DESIGNATING CRITICAL]~~ AREAS. (a) In ranking ~~[designating critical]~~ areas under the plan, the board shall consider:

(1) the location of various brush infestations;

(2) the type and severity of ~~[various]~~ brush infestations;

(3) the various management methods that may be used to control brush; ~~[and]~~

(4) the amount of water produced by a project and the severity of water shortage in the project area; and

(5) any other criteria that the board considers relevant to assure that the brush control program can be most effectively, efficiently, and economically implemented.

(b) In ranking ~~[designating critical]~~ areas, the board shall give priority to areas with the most critical water conservation needs and in which brush control and revegetation projects will be most likely to produce substantial water conservation.

Sec. 203.055. APPROVED METHODS FOR BRUSH CONTROL. (a) The board shall study and must approve all methods used to control brush under this chapter ~~[Act]~~ considering the overall impact of the project ~~[will have within critical areas]~~.

(b) The board may approve a method for use under the cost-sharing program provided by Subchapter E ~~[of this chapter]~~ if the board finds that the proposed method:

(1) has proven to be an effective and efficient method for controlling brush;

(2) is cost efficient;

(3) will have a beneficial impact on the development of water sources and wildlife habitat;

(4) will maintain topsoil to prevent erosion or silting of any river or stream; and

(5) will allow the revegetation of the area after the brush is removed with plants that are beneficial to stream flows, groundwater levels, and livestock and wildlife.

Sec. 203.101. GENERAL AUTHORITY. Each district may administer the aspects of the brush control program [~~within any critical area located~~] within the jurisdiction of that district.

SECTION 9. Section 203.154, Agriculture Code, is amended by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows:

(a) Not more than 70 [~~80~~] percent of the total cost of a single brush control project may be made available as the state's share in cost sharing.

(c) The board may grant an exception to Subsection (b) [~~of this section~~] if the board finds that joint participation of the state brush control program and any federal brush control program will:

(1) enhance the efficiency and effectiveness of a project; [~~and~~]

(2) lessen the state's financial commitment to the project; and

(3) not exceed 80 percent of the total cost of the project.

(d) A political subdivision is eligible for cost sharing under the brush control program, provided that the state's share may not exceed 50 percent of the total cost of a single project.

(e) Notwithstanding any other provision of this section, 100 percent of the total cost of a single project on public lands may be made available as the state's share in cost sharing.

SECTION 10. Sections 203.156, 203.157, and 203.158, Agriculture Code, are amended to read as follows:

Sec. 203.156. APPLICATION FOR COST SHARING. A person, including a political subdivision, that ~~[who]~~ desires to participate with the state in a brush control project and to obtain cost-sharing participation by the state shall file an application with the district board in the district in which the land on which the project is to be accomplished is located. The application must be in the form provided by board rules.

Sec. 203.157. CONSIDERATIONS IN PASSING ON APPLICATION. In passing on an application for cost sharing, the board shall consider:

(1) the location of ~~[whether]~~ the project ~~[is to be carried out in a critical area];~~

(2) the method of control that is to be used by the project applicant;

(3) the plans for revegetation;

(4) the total cost of the project;

(5) the amount of land to be included in the project;

(6) whether the applicant for the project is financially able to provide his share of the money for the project;

(7) the cost-share percentage, if an applicant agrees to a higher degree of financial commitment;

(8) any comments and recommendations submitted by a local district, the department, the Texas Water Development Board, or ~~[of]~~ the Parks and Wildlife Department; and

(9) any other pertinent information considered necessary by the board.

Sec. 203.158. APPROVAL OF APPLICATION. The board may approve an application if, after considering the factors listed in Section 203.157 ~~[of this code]~~ and any other relevant factors, the board finds:

(1) the owner of the land fully agrees to cooperate in the project;

(2) the method of eradication is a method approved by the board under Section 203.055 ~~[of this code]~~; and

(3) the project is a higher priority than other projects submitted in accordance with ~~[to be carried out in a critical area designated under]~~ the board's plan.

SECTION 11. Subsections (a) and (c), Section 203.159, Agriculture Code, are amended to read as follows:

(a) If the demand for funds under the cost-sharing program is greater than funds available, the board shall ~~[may]~~ establish priorities favoring the areas with the most critical water conservation needs and projects that will be most likely to produce substantial water conservation.

1           (c) The quantity of stream flows or groundwater or [~~amount~~  
2 ~~of land dedicated to the project that will produce significant~~]  
3 water conservation from the eradication of brush is a consideration  
4 in assigning priority.

5           SECTION 12. (a) Subdivision (5), Section 203.001,  
6 Agriculture Code, is repealed.

7           (b) Section 203.155, Agriculture Code, is repealed.

8           SECTION 13. In making initial appointments to the State  
9 Soil and Water Conservation Board under Section 201.011,  
10 Agriculture Code, as amended by this Act, the governor shall  
11 designate one member to serve a term expiring February 1, 2004, and  
12 the other member to serve a term expiring February 1, 2005.

13          SECTION 14. The State Soil and Water Conservation Board  
14 shall prepare and deliver the first report required by Section  
15 201.028, Agriculture Code, as added by this Act, not later than  
16 January 1, 2004.

17          SECTION 15. This Act takes effect September 1, 2003.

S.B. No. 1828

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 1828 passed the Senate on May 1, 2003, by a viva-voce vote; May 30, 2003, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 31, 2003, House granted request of the Senate; June 1, 2003, Senate adopted Conference Committee Report by a viva-voce vote.

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Secretary of the Senate

I hereby certify that S.B. No. 1828 passed the House, with amendment, on May 28, 2003, by a non-record vote; May 31, 2003, House granted request of the Senate for appointment of Conference Committee; June 1, 2003, House adopted Conference Committee Report by a non-record vote.

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Chief Clerk of the House

Approved:

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Date

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Governor

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**May 31, 2003**

**TO:** Honorable David Dewhurst , Lieutenant Governor, Senate  
Honorable Tom Craddick, Speaker of the House, House of Representatives

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE:** SB1828 by Averitt (Relating to the composition and duties of the State Soil and Water Conservation Board.), Conference Committee Report

<b>No significant fiscal implication to the State is anticipated.</b>
---

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 308 State Auditor's Office, 551 Department of Agriculture, 580 Water Development Board, 592 Soil and Water Conservation Board, 802 Parks and Wildlife Department

**LBB Staff:** JK, CL, TL

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**April 25, 2003**

**TO:** Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: SB1828** by Averitt (Relating to the composition and duties of the State Soil and Water Conservation Board.), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would add two members to the Soil and Water Conservation Board. It would also require the agency to perform an audit and submit a report to the Legislature.

There would likely be some additional travel and per diem costs for the additional board members. There would also be additional costs associated with the preparation of the audit and report required by the bill. It is expected that these costs would not be significant, and that the Soil and Water Conservation Board could absorb additional costs using existing staff and resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 592 Soil and Water Conservation Board

**LBB Staff:** JK, GO, TL



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**April 15, 2003**

**TO:** Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: SB1828** by Averitt (Relating to the transfer of the State Soil and Water Conservation Board to the Department of Agriculture.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1828, As Introduced: a positive impact of \$2,134,391 through the biennium ending August 31, 2005.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2004	\$1,067,195
2005	\$1,067,196
2006	\$1,067,196
2007	\$1,067,196
2008	\$1,067,196

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from GENERAL REVENUE FUND 1</b>	<b>Change in Number of State Employees from FY 2003</b>
2004	\$1,067,195	(11.5)
2005	\$1,067,196	(21.0)
2006	\$1,067,196	(21.0)
2007	\$1,067,196	(21.0)
2008	\$1,067,196	(21.0)

**Fiscal Analysis**

This bill transfers the functions of the State Soil and Water Conservation Board to the Department of Agriculture. These functions include: Brush Control, Technical Assistance to Soil and Water Conservation (SWC) Districts, Pollution Abatement, and Statewide Management Planning. The board would function under the direction of the Agriculture Commissioner, who would designate one of the board members as the chairman. The board would develop and implement policies that clearly separated the respective responsibilities of the state board and the staff of the board.

**Methodology**

According to the Department of Agriculture (TDA) the transfer of the State Soil and Water Conservation Board (TSSWCB) functions to TDA would result in a biennial savings to General Revenue of \$2,134,391. This savings would be realized through a reduction in FTEs and the associated administrative costs needed to implement TSSWCB's Brush Control and Pollution

Abatement functions.

TDA has had prior experience in administering Brush Control grants and anticipates being able to distribute these grants without needing any of the four FTEs currently associated with the program, resulting in a biennial savings of \$150,947 in General Revenue. TDA also proposes to combine Pollution Abatement with the Technical Assistance to SWC Districts function. According to the agency, this action would be phased in beginning in fiscal year 2004 and would result in a total reduction of 15 FTEs in fiscal year 2005 and an associated \$1,983,444 biennial savings in administrative costs.

TDA also anticipates a reduction to the FTEs associated with Statewide Management Planning. This function is primarily funded from federal dollars. TSSWCB originally requested six FTEs to implement this program in the upcoming biennium. It is anticipated that because TDA already has established relationships with EPA and an infrastructure to handle EPA grants, TDA could operate this program with only four FTEs resulting in a further reduction of two FTEs.

### **Technology**

No significant fiscal impact to technology.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 551 Department of Agriculture, 592 Soil and Water Conservation Board

**LBB Staff:** JK, WP, GO, MS, TL, JF

S.B. No. 1828

\_\_\_\_\_  
President of the Senate                      Speaker of the House

I hereby certify that S.B. No. 1828 passed the Senate on  
May 1, 2003, by <sup>a viva-voce vote;</sup> ~~the following vote:~~ Yeas     , Nays     ;  
May 30, 2003, Senate refused to concur in House amendments  
and requested appointment of Conference Committee;  
May 31, 2003, House granted request of the Senate;  
June 1, 2003, Senate adopted Conference Committee Report by  
<sup>a viva-voce vote.</sup> ~~the following vote:~~ Yeas     , Nays      ~~6~~

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1828 passed the House, with  
amendments, on May 28, 2003, by <sup>a non-record vote;</sup> ~~the following vote:~~  
Yeas     , Nays      ~~6~~ May 31, 2003, House granted request  
of the Senate for appointment of Conference Committee;  
June 1, 2003, House adopted Conference Committee Report by  
<sup>a non-record vote.</sup> ~~the following vote:~~ Yeas     , Nays      ~~6~~

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

By AVERITT

**AN ACT:**

3-14.03

~~MAR 24 2003~~  
~~MAR 27 2003~~

APR 28 2003

MAY 01 2003

~~MAY 01 2003~~

MAY 01 2003

MAY 01 2003

*Lotey Spaw*  
SECRETARY OF THE SENATE

May 1, 2003

May 2, 2003

Engrossing Clerk

Mardi Alexander

**MAY 02 2003**

MAY 02 2003

**MAY 20 2003**

**MAY 23 2003**

**MAY 26 2003**

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting.

MAY 28 2003

Read third time (~~unrecorded~~); finally passed (~~failed to pass~~) by a (non-record vote) (~~record vote of~~ \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

**MAY 29 2003**

*Robert Hanes*  
CHIEF CLERK OF THE HOUSE

**MAY 29 2003**

Concurred in House amendments by a viva voce vote \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

MAY 30 2003

Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

Senate conferees instructed.

MAY 30 2003

Senate conferees appointed: Averitt, Chairman; Duncan  
Ellis, Bivins, and Armbrister

5-31-03

House granted Senate request. House conferees appointed: Swinford, Chairman;  
Castell Chesim Cook, Hardecastle.

MAY 31 2003

Conference Committee Report read and filed with the Secretary of the Senate.

JUN 01 2003

Conference Committee Report adopted on the part of the House by: \_\_\_\_\_

{ a viva voce vote  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays

JUN 01 2003

Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays

**OTHER ACTION:**

\_\_\_\_\_ Recommitted to Conference Committee

\_\_\_\_\_ Conferees discharged.

\_\_\_\_\_ Conference Committee Report failed of adoption by: \_\_\_\_\_

{ a viva voce vote  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays